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ABSTRACT

During a meeting held on May 2, 1980, the House Subcommittee on Elementary, Secondary, and Vocational Education focused on the administration of the Indian Education Act, Title IV of Public Law 92-318. Title IV of Public Law 92-318 and Title XI of Public Law 95-561 (legislation administered within the Department of Health, Education, and Welfare) were entered in the record. Dr. William L. Smith, Commissioner of Education, submitted his testimony for the record, and then he and his colleagues answered the Committee's questions concerning: (1) changes in the application process for grant awards: (2) problems and delays encountered in finalizing Part A application packages: (3) problems caused by applicants returning incomplete or deficient applications: (4) delays attributed to the program regulation publication schedule: (5) technical and quality reviews of grant applications: (6) screening students for Part A entitlement program eligibility: (7) misunderstanding in the Indian community concerning changes in the 506 form: (8) time schedules for sending award letters and issuing program funds to grantees: and (9) the position of the Office of Indian Education within the newly formed Department of Education. Pertinent letters and supplemental material were also entered in the record. (CM)

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INDIAN EDUCATION ACT, TITLE IV, PUBLIC LAW 92-318

HEARING

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, D.C., ON

MAY 2, 1980

Printed for the use of the Committee on Education and Labor

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U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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INDIAN EDUCATION ACT, TITLE IV, PUBLIC LAW 92-318

FRIDAY, MAY 2, 1980

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2261, Rayburn House Office Building, Hon. Dale E. Kildee presiding.

Members present: Representatives Kildee and Erdahl.

Staff present: Alan R. Lovesee, counsel; Jeff McFarland, research assistant; Scherri Tucker, assistant clerk; and Jennifer Vance, minority legislative associate.

Mr. KILDEE. The subcommittee will be in order.

This hearing of the Elementary, Secondary, and Vocational Education Subcommittee will focus on the administration of the Indian Education Act, title IV of the Education Amendments of 1972, Public Law 92-381.

This is the eighth hearing which I have chaired since Chairman Perkins asked me to spearhead the subcommittee's efforts in Indian education.

[Title IV of Public Law 92-318 and title XI of Public Law 95-561 follows:]

PART I—LEGISLATION ADMINISTERED WITHIN THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

INDIAN EDUCATION ACT (JUNE 23, 1972) PUBLIC LAW 92-318, TITLE IV AS AMENDED THROUGH PUBLIC LAW 93-380

TITLE IV. INDIAN EDUCATION

SHORT TITLE

SEC. 401. This title may be cited as the "Indian Education Act."

Enacted June 23, 1972, P.L. 92-318, sec. 401, 86 Stat. 334.

PART A—REVISION OF IMPACTED AREAS PROGRAM AS IT RELATES TO INDIAN CHILDREN

AMENDMENTS TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 411. (a) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by redesignating title III as title IV as sections 401 through 403, respectively, and by adding after title II the following new title:

"TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Indian Elementary and Secondary School Assistance Act.'

Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334.

"DECLARATION OF POLICY

"SEC. 302. (a) In recognition of the special educational needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational needs.

"(b) The Commissioner shall, in order to effectuate the policy set forth in subsection (a), carry out a program of making grants to local educational agencies which are entitled to payments under this title and which have submitted, and had approved, applications therefor, in accordance with the provisions of this title.

(20 U.S.C. 241aa) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 334.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 303. (a) (1) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year ending prior to July 1, 1978, the Commissioner shall determine the number of Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

"(2) (A) The amount of the grant to which a local educational agency is entitled under this title for any fiscal year shall be an amount equal to (i) the average per pupil expenditure for such agency (as determined under subparagraph (C)) multiplied by (ii) the sum of the number of children determined under paragraph (1).

"(B) A local educational agency shall not be entitled to receive a grant under this title for any fiscal year unless the number of children under this subsection, with respect to such agency, is at least ten or constitutes at least 50 per centum of its total enrollment. The requirements of this subparagraph shall not apply to any such agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

"(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom such agencies provided free public education during such preceding fiscal year.

"(b) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to provide financial assistance to schools on or near reservations which are not local educational agencies or have not been local educational agencies for more than three years, in accordance with the appropriate provisions of this title.

(20 U.S.C. 241bb) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 335; amended August 21, 1974, P.L. 93-380, sec. 631 (b), 88 Stat. 585.

"USES OF FEDERAL FUNDS

"SEC. 304. Grants under this title may be used, in accordance with applications approved under section 305, for—

"(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational needs of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

"(2) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the

Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational needs of Indian children.

(20 U.S.C. 241cc) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 335, 330.

"APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

"SEC. 305. (a) A grant under this title, except as provided in section 303(b), may be made only to a local educational agency or agencies, and only upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

"(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) set forth a program for carrying out the purposes of section 304, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

"(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

"(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

"(5) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

"(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(7) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Indian students in the area served, and for keeping such record and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

"(1) meets the requirements set forth in subsection (a);

"(2) provides that the program or project for which application is made—

"(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

"(B) has been developed—

"(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

"(ii) with the participation and approval of a committee composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents:

"(C) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii).

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

(20 U.S.C. 241dd) Enacted June 23, 1972, P.L. 92-318, sec. 411, 86 Stat. 336, 337.

"PAYMENTS

"SEC. 306. (a) The Commissioner shall, subject to the provisions of section 307, from time to time pay to each local educational agency which has had an application approved under section 305, an amount equal to the amount expended by such agency in carrying out activities under such application.

"(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

"(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with

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respect to the provisions of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

(20 U.S.C. 241ee) Enacted June 23, 1972, P.L. 92-318, sec. 141, 86 Stat. 337.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 307. (a) If the sums appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this title for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year, during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner shall fix dates prior to which each local educational agency shall report to him on the amount of funds available to it, under the terms of section 306(a) and subsection (a) of this section, which it estimates, in accordance with regulations of the Commissioner, that it will expend under approved applications. The amounts so available to any local educational agency, or any amount which would be available to any other local education agency if it were to submit an approvable application therefor, which the Commissioner determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in the second sentence of subsection (a), which the Commissioner determines will need additional funds to carry out approved applications, except that no local educational agency shall receive an amount under this sentence which, when added to the amount available to it under subsection (a), exceeds its entitlement under section 303".

(20 U.S.C. 241ff) Enacted June 23, 1972, P.L. 92-318, sec. 141, 86 Stat. 337, 338.

Sec. 411(b).

* * * * * * *

(Note.—Sec. 411(b) was an amendment to Title I of the Elementary and Secondary Education Act of 1965, as amended).

* * * * * * *

Sec. 411(c)(1).

* * * * * * *

(Note.—Sec. 411(c)(1) was an amendment to Title I of Public Law 874, 81st Congress, as amended).

Sec. 411 (c)(2)(A) The Commissioner shall exercise his authority under section 425 of the General Education Provisions Act, to encourage local parental participation with respect to financial assistance

under title I of Public Law 874, 81st Congress, based upon children who reside on, or reside with a parent employed on, Indian lands.[1]

(B) For the purposes of this paragraph, the term "Indian lands" means that property included within the definition of Federal property under clause (A) of section 403(1) of Public Law 874, 81st Congress.

Enacted June 23, 1972, P.L. 92-318, 86 Stat. 337.

PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

AMENDMENT TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 421. (a) Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding to the end thereof the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

"SEC. 810. (a) The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

"(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

"(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provisions of educational services not available to Indian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

"(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

"(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

"In the case of activities of the type described in clause (3) preference shall be given to the training of Indians.

"(b) The Commissioner is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, organizations, and institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

[1] P.L. 93-380, sec. 507(a) redesignated sec. 425 of the General Education Provisions Act as Sec. 427.

"(1) innovative programs related to the educational needs of educationally deprived children;

"(2) bilingual and bicultural education programs and projects;

"(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

"(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

"(c) The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Grants may be used—

"(1) to provide educational services now available to such children in sufficient quantity or quality, including—

"(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

"(B) comprehensive academic and vocational instruction;

"(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

"(D) comprehensive guidance, counseling, and testing services;

"(E) special education programs for handicapped;

"(F) preschool programs;

"(G) bilingual and bicultural education programs; and

"(H) other services which meet the purposes of this subsection; and

"(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

"(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

"(1) to prepare persons to serve Indian children as teachers, teacher aides, social workers, and ancillary educational personnel; and

"(2) to improve the qualifications of such persons who are serving Indian children in such capacities.

"Grants for the purposes of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences. In carrying out the programs authorized by this subsection, preference shall be given to the training of Indians.

"(e) The Commissioner is also authorized to make grants to and contracts with, public agencies, and institutions and Indian tribes, institutions, and organizations for—

"(1) the dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

"(f) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) in the case of an application for the purposes of subsection (c), subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purpose of this section;

"(3) in the case of an application for the purposes of subsection (c), make adequate provisions for the training of the personnel participating in the project; and

"(4) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

"The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. The Commissioner shall not approve an application for a grant under subsection (b), (c), or (d) unless he is satisfied that such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provision for the participation of such children on an equitable basis. In approving applications under this section, the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

"(g) For the purpose of making grants under this section there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and $35,000,000 for each of the succeeding fiscal years ending prior to July 1, 1978."

(20 U.S.C. 887(c) Enacted June 23, 1972, P.L. 92-318, Sec. 421(a); 86 Stat. 339, 341; amended August 21, 1974, P.L. 93-380, sec. 631(a), 88 Stat. 585; amended August 21, 1974, P.L. 93-380, sec. 632(a), 88 Stat. 586.

Sec. 421(b)(1).

* * * * * * * *

(Note.—Sec. 421(b)(1) amended Titles II and III of the Elementary and Secondary Education Act of 1965, as amended, and Section 612(a)(1) of Public Law 91-230)

* * * * * * * *

SEC. 421(b)(2). For the purposes of titles II and III of the Elementary and Secondary Education Act of 1965 and part B of title VI of Public Law 91-230, the Secretary of the Interior shall have the same duties and responsibilities with respect to funds paid to him under such titles, as he would have if the Department of the Interior were a State educational agency having responsibility for the administration of a State plan under such titles.

Enacted June 23, 1972, P.L. 92-318, 86 Stat. 341.

SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR TEACHERS OF INDIAN CHILDREN

SEC. 422. (a) The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian children and to provide in-service training for persons teaching in such programs. Priority shall be given to Indian institutions and organizations. In carrying out his responsibilities under this section, the Commissioner is authorized to award fellowships and traineeships to individuals and to make grants to and to enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for cost of education allowances. In awarding fellowships and traineeships under this section, the Commissioner shall give preference to Indians.

(b) In the case of traineeships and fellowships, the Commissioner is authorized to grant stipends to, and allowances for dependents of persons receiving traineeships and fellowships.

(c) There is authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, and for each of the three succeeding fiscal years to carry out the provisions of this section.

(20 U.S.C. 887c-1) Enacted August 21, 1974, P.L. 93-380, sec. 632(c), 88 Stat. 586.

FELLOWSHIPS FOR INDIAN STUDENTS

SEC. 423. (a) During the fiscal year ending June 30, 1975, and each of the three succeeding fiscal years, the Commissioner is authorized to award not to exceed two hundred fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not less than three, nor more than four, academic years leading toward a professional or graduate degree in engineering, medicine, law, business, forestry and related fields. In addition to the fellowships authorized to be awarded in the first sentence of this subsection, the Commissioner is authorized to

award a number of fellowships equal to the number previously awarded during any fiscal year under this subsection but vacated prior to the end of the period during which they were awarded, except that each fellowship so awarded shall be only for a period of study not in excess of the remainder of the period of time for which the fellowship it replaces was awarded, as the Commissioner may determine.

(b) The Commissioner shall pay to persons awarded fellowships under this subsection such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) The Commissioner shall pay to the institution of higher education at which the holder of a fellowship under this subsection is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Commissioner may determine to cover the cost of education for the holder of such a fellowship.

(20 U.S.C. 887c-2) Enacted August 21, 1974, P.L. 93-380, sec 632(c), 88 Stat. 580, 587.

Part C—Special Programs Relating to Adult Education for Indians

Amendment to the Adult Education Act

Sec. 431. Title III of the Elementary and Secondary Education Amendments of 1966 (the Adult Education Act) is amended by redesignating sections 314 and 315, and all references thereto, as sections 315 and 316, respectively, and by adding after section 313 the following new section:

"Improvement of educational opportunities for adult Indians

"Sec. 314. (a) The Commissioner shall carry out a program of making grants to State and local educational agencies, and to Indian tribes, institutions, and organizations, to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for providing adult education for Indians—

"(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

"(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

"(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion on Indian reservations;

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

"(b) The Commissioner is also authorized to make grants to, and contracts with, public agencies, and institutions, and Indian tribes, institutions, and organizations for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purpose of such programs with respect to such adults.

"(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

"The Commissioner shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

"(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the succeeding fiscal years ending prior to July 1, 1978."

(20 U.S.C. 1211a) Enacted June 23, 1972, P.L. 92-318, sec. 431, 86 Stat. 342, 343; amended August 21, 1974, P.L. 93-380, sec. 006, 88 Stat. 570.

Part D—Office of Indian Education

OFFICE OF INDIAN EDUCATION

Sec. 441. (a) There is hereby established, in the Office of Education, a bureau to be known as the "Office of Indian Education" which, under the direction of the Commissioner, shall have the responsibility for administering the provisions of title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 314 of title III of the Elementary and Secondary Education Amendments of 1966, as added by this Act. The Office shall be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the Commissioner of Education from a list of nominees submitted to him by the National Advisory Council on Indian Education.

(b) The Deputy Commissioner of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code, and shall perform such duties as are delegated or assigned to him by the Commissioner. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

(20 U.S.C. 1221f) Enacted June 23, 1972, P.L. 92-318, sec. 441, 86 Stat. 343.

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

SEC. 442. (a) There is hereby established the National Advisory Council on Indian Education (referred to in this title as the "National Council"), which shall consist of fifteen members who are Indians and Alaska Natives appointed by the President of the United States. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until July 1, 1978.

(b) The National Council shall—

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, and section 810, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and with respect to adequate funding thereof;

(2) review applications for assistance under title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act and section 314 of the Adult Education Act, as added by this Act, and make recommendations to the Commissioner with respect to their approval;

(3) evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress); and

(6) to submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

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(c) With respect to functions of the National Council stated in clauses (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) From the sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for the purposes of section 411 of such Act and for part D of such Act, the Commissioner shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

(20 U.S.C. 1221g) Enacted June 23, 1972, P.L. 92-318, sec. 442, 86 Stat. 343, 344; amended August 21, 1974, P.L. 93-380, sec. 505(a)(2), 88 Stat. 502; amended August 21, 1974, P.L. 93-380, sec. 845(d), 88 Stat. 612.

PART E—MISCELLANEOUS PROVISIONS

AMENDMENT TO TITLE V OF HIGHER EDUCATION ACT OF 1965

SEC. 451. (a) Section 503(a) of the Higher Education Act of 1965 is amended by inserting after "and higher education," the following: "including the need to provide such programs and education to Indians.".

(b) Part D of title V of the Higher Education Act of 1965 is amended by adding after section 531 the following new section:

"TEACHERS FOR INDIAN CHILDREN

"SEC. 532. Of the sums made available for the purposes of this part, not less than 5 per centum shall be used for grants to, and contracts with, institutions of higher education and other public and private nonprofit agencies and organizations for the purpose of preparing persons to serve as teachers of children living on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior, including public and private schools operated by Indian tribes and by nonprofit institutions and organizations of Indian tribes. In carrying out the provisions of this section preference shall be given to the training of Indians.

(20 U.S.C. 1119a) Enacted June 23, 1972, P.L. 92-318, sec. 451(b), 86 Stat. 344.

"DISTRIBUTION OF TRAINING PROGRAMS

"SEC. 533. In making grants and contracts for programs and projects under this part, the Commissioner shall seek to achieve an equitable geographical distribution of training opportunities throughout the Nation, taking into account the number of children in each State who are aged three to seventeen."

(20 U.S.C. 1119a-1) Enacted Oct. 16, 1968, P.L. 90-575, Title II, sec. 239, 82 Stat. 1040-1041.

SEC. 452.

* * * * * * *

(Sec. 452 of P.L. 92-318 was an amendment to Sec. 706(a) of the Elementary and Secondary Education Act of 1965, as amended. P.L. 93-380 redesignated Sec. 706 as Sec. 722 and added new subsections: (c) and (d)):

* * * * * * *

"INDIAN CHILDREN IN SCHOOLS

"SEC. 722. (a) For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

"(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the Secretary of the Interior to carry out programs of bilingual education for children on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for such purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702(a).

"(c) The Secretary of the Interior shall prepare and, not later than November 1 of each year, shall submit to the Congress and the President an annual report detailing a review and evaluation of the use, during the preceding fiscal year, of all funds paid to him by the Commissioner under subsection (b) of this section, including complete fiscal reports, a description of the personnel and information paid for in whole or in part with such funds, the allocation of such funds, and the status of all programs funded from such payments. Nothing in this subsection shall be construed to relieve the Director of any authority or obligation under this part.

"(d) The Secretary of the Interior shall, together with the information required in the preceding subsection, submit to the Congress and the President, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those State educational agencies and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior."

(20 U.S.C. 880b-8) Enacted April 13, 1970, P.L. 91-230, Title I, sec. 152(a), 84 Stat. 151; amended June 23, 1972, P.L. 92-318, Title IV, sec. 452, 84 Stat. 152; redesignated and amended August 21, 1974, P.L. 93-380, sec. 105(a)(1), 88 Stat. 507, 508.

DEFINITION

SEC. 453. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

(20 U.S.C. 1221h) Enacted June 23, 1972, P.L. 92-318, sec. 453, 86 Stat. 345.

TITLE XI—INDIAN EDUCATION

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

AMENDMENT TO PUBLIC LAW 874

SEC. 1101. (a) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 3(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new subparagraph: 20 USC 238.

"(D) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 403(1), shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centum.".

(b) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(a)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is repealed and section 5(a)(1) of such Act is redesignated as section 5(a). Repeal. 20 USC 240.

(c) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 5(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by inserting after paragraph (2) (as added by section 1005 of this Act) the following new paragraph:

"(3)(A) Payments of entitlements under section 3(d)(2)(D) of this Act shall be made only to local educational agencies which have, within one year of the date of enactment of this paragraph, or when local educational agencies are formed after such date of enactment, within one year of their formation, established such policies and procedures with respect to information received from Indian parents and tribes as required by this paragraph and which have made assurances to the Commissioner, at such time and in such manner as shall be determined by regulation, that such policies and procedures have been established. The Commissioner shall have the authority to waive this one-year limit for good cause, and in writing to the tribes to be affected.

"(B) Each local educational agency shall establish such policies and procedures as are necessary to insure that—

DEFINITIONS

25 USC 2019.

SEC. 1139. For the purpose of this title—

(1) the term "agency school board" means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties;

(2) the term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(3) the term "Commissioner" means the Commissioner of Education;

(4) the term "financial plan" means a plan of services to be provided by each Bureau school;

(5) the term "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized Indian tribes;

(6) the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

(7) the term "local school board", when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected; and the number of such members shall be determined by the Secretary in consultation with the affected tribes;

(8) the term "Secretary" means the Secretary of the Interior;

(9) the term "supervisor" means the individual in the position of ultimate authority at a Bureau school; and

(10) the term "tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

43 USC 1601 note.

PART C—INDIAN EDUCATION PROVISIONS

EXTENSION OF AUTHORIZATION

20 USC 3385.

SEC. 1141. (a) Section 1005(g) of the Elementary and Secondary Education Act of 1965 as redesignated by section 801 of this Act, is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1983".

(b) Section 303(a)(1) of the Indian Elementary and Secondary School Assistance Act (title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress)) as added by the Indian

Education Act, is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983". 20 USC 241bb.

(c)(1) Section 422 of the Indian Education Act is amended by striking out "each of the three succeeding fiscal years" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to October 1, 1983". 20 USC 887c-1.

(2) Section 423(a) of such Act is amended by striking out "each of the three succeeding fiscal years" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to October 1, 1983". 20 USC 887c-2.

(3) Section 442(a) of such Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983". 20 USC 1221g.

CULTURALLY RELATED ACADEMIC NEEDS

SEC. 1142. (a) Section 302(a) of the Indian Elementary and Secondary School Assistance Act is amended— 20 USC 241aa.

(1) by striking out "special educational needs of Indian students" and inserting in lieu thereof "special educational and culturally related academic needs of Indian students"; and

(2) by striking out "these special educational needs" and inserting in lieu thereof "these special educational or culturally related academic needs, or both".

(b) Section 304 of such Act is amended by striking out "special educational needs" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "special educational or culturally related academic needs, or both,". 20 USC 241cc.

DEMONSTRATION PROJECTS

SEC. 1143. Section 303 of the Indian Elementary and Secondary School Assistance Act is amended by adding at the end thereof the following new subsection: Grants, appropriation authorization. 20 USC 241bb.

"(c) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve education opportunities for Indian children, except that the Commissioner shall reserve a portion not to exceed 25 per centum of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.".

PARENT COMMITTEES

SEC. 1144. Section 305(b) of the Indian Elementary and Secondary School Assistance Act is amended— 20 USC 241dd.

(1) by inserting "(including persons acting in loco parentis other than school administrators or officials)" after "Indian children" in paragraph (2)(B)(i) and after "children participating in the program" in paragraph (2)(B)(ii);

(2) by inserting ", including policies and procedures relating to the hiring of personnel," after "policies and procedures" in paragraph (2)(C); and

(3) by striking out the period at the end of paragraph (2)(C) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(3) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable by-laws for the conduct of the program for which assistance is sought.".

ALLOCATION ADJUSTMENT

20 USC 241ff.

SEC. 1145. Section 307(b) of the Indian Elementary and Secondary School Assistance Act is amended to read as follows:

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner may reallot, in such manner as he determines will best assist in advancing the purposes of this title, any amount awarded to a local education agency in excess of the amount to which it is entitled under section 303(a) and subsection (a) of this section, or any amount which the Commissioner determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.".

20 USC 241bb.

TRIBAL SCHOOLS

20 USC 241bb-1.

SEC. 1146. Notwithstanding any other provision of law, any Indian tribe or organization which is controlled or sanctioned by an Indian tribal government and which operates any school for the children of that tribe shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act if each such school, as determined by the Commissioner, operated by that tribe or organization provides its students an educational program which meets the standards established under section 1121 for the basic education of Indian children, or is a school operated under contract by that tribe or organization in accordance with the provisions of the Indian Self-Determination and Education Assistance Act.

25 USC 450 note.

DEFINITION STUDY

20 USC 1221h.

SEC. 1147. Section 453 of the Indian Education Act is amended by inserting "(a)" immediately after "SEC. 453." and by adding at the end thereof the following new subsection:

Consultation and submittal to Congress.

"(b) The Assistant Secretary of Health, Education, and Welfare for Education, in consultation with Indian tribes, national Indian organizations, and the Secretary of the Interior, shall supervise a thorough study and analysis of the definition of Indian contained in subsection (a) and submit a report on the results of such study and analysis to the Congress not later than January 1, 1980. Such study and analysis shall include but not be limited to—

"(1) an identification of the total number of Indian children being served under this title;

"(2) an identification of the number of Indian children eligible and served under each of the four clauses of such definition in such subsection;

"(3) an evaluation of the consequences of eliminating descendants in the second degree from the terms of such definition, or of specifying a final date by which tribes, bands, and groups must be recognized, or of both;

"(4) other options for changes in the terms of such definition and an evaluation of the consequences of such changes, together with supporting data;

"(5) recommendations with respect to criteria for use by the Commissioner under the rulemaking authority contained in clause (4) of such subsection.".

DATA COLLECTION

SEC. 1148. Section 453 of the Indian Education Act is amended by inserting after subsection (b), as added by section 1147: 20 USC 1221h.

"(c) In establishing a child's eligibility for entitlement under part A of this Act, the Commissioner shall request at least the following information on the student eligibility form:

"(1) the name of the tribe, band, or other organized group of Indians with which the applicant claims membership, along with the enrollment number establishing membership (where applicable), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians; or, if the child is not a member of a tribe, band, or other organized group of Indians, the student eligibility form shall bear the name, the enrollment number (where applicable) and the organization (and address thereof) responsible for maintaining updated and accurate membership roles of any of the applicant's parents or grandparents, from whom the applicant claims eligibility;

"(2) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership are federally recognized;

"(3) the name and address of the parent or legal guardian;

"(4) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

"(5) any other information which the Secretary deems necessary to provide an accurate program profile.".

PROGRAM MONITORING

SEC. 1149. (a) The Commissioner shall establish a method of auditing on an annual basis a sample of not less than one-third of the total number of school districts receiving funds under part A of the Indian Education Act, and shall report to the Congress his findings. Annual audit, report to Congress. 20 USC 241aa note.

(b) Any falsification of information provided on the local educational agency application for funds under part A of such Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act. Information falsification.

(c) Any falsification of information provided on the student eligibility form for funds under part A of such Act is punishable by making that individual ineligible for receiving any future entitlement under the Act.

AMENDMENTS TO TITLE X OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 1150. (a) Section 1005(c)(1)(E) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "and gifted and talented Indian children" after "handicapped". 20 USC 3385.

20 USC 3385.

(b)(1) Section 1005(c)(1)(F) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended to read as follows:

"(F) early childhood programs, including kindergarten;".

(2)(A) Section 1005(d) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended—

(i) by striking out "children" in paragraphs (1) and (2) of such section and by inserting in lieu thereof "students" each time it appears; and

(ii) by inserting after "teachers" a comma and the following: "administrators".

(B) The section heading of section 1005 of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended to read as follows:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN STUDENTS"

(c)(1) Section 1005(e) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended as follows:

Regional information centers, establishment, grants and contracts.

"(e)(1) The Commissioner is also authorized to make grants to and contracts with public agencies, State educational agencies in States in which more than five thousand Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, or to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

20 USC 241aa note. 20 USC 1211a.

"(A) evaluate programs assisted under this part, under the Indian Elementary and Secondary School Assistance Act, under section 314 of the Adult Education Act, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and to conduct research to determine those needs;

"(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305(b)(2)(B)(ii) of the Indian Elementary and Secondary School Assistance Act in evaluating and carrying out programs assisted under this part, under such Act, and under section 314 of the Adult Education Act through the provision of materials and personnel resources; and

20 USC 241dd.

"(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.

"(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to insure annual review of the projects.".

(2) Section 1005(b) of such Act, as redesignated by section 801 of this Act, is amended by striking out "Indian tribes, organizations, and institutions" and inserting in lieu thereof "Indian tribes, Indian organizations, and Indian institutions".

(d) Section 1005(f) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "(1)" after "(f)", by redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D) respectively, and by adding at the end thereof the following: 20 USC 3385.

"(2) The Commissioner shall not approve an application for a grant under subsection (e) of this section unless he is satisfied that the funds made available under that subsection will be so used as to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds under this subsection, be made available by the State or local educational agency for the activities described in this subsection, and in no case will be used so as to supplant those funds.".

(e) Section 1005(g) of the Elementary and Secondary Education Act of 1965, as redesignated by section 801 of this Act, is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) For the purpose of making grants under subsection (e) of this section there are hereby authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1983. The sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum in any fiscal year of the sums appropriated for that year.". Appropriation authorization.

(f) Section 306(a) of the Indian Elementary and Secondary School Assistance Act is amended by inserting "estimated to be" after "equal to the amount". 20 USC 241ee.

DEFINITION OF INDIAN

SEC. 1151. Section 453(1) of the Indian Education Act is amended by striking out "now or in the future". 20 USC 1221h.

TEACHER TRAINING AND FELLOWSHIPS

SEC. 1152. (a) The first sentence of section 422(a) of the Indian Education Act is amended by striking out "children" and inserting in lieu thereof "people". 20 USC 887c-1.

(b) Section 423(a) of the Indian Education Act is amended— 20 USC 887c-2.

(1) by striking out "less than three, nor"; and

(2) by striking out "professional or graduate degree in engineering, medicine, law, business, forestry, and related field" and inserting in lieu thereof "postbaccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.".

Mr. KILDEE. This is the fourth hearing which I have chaired on the implementation of this vital act, and I wish to thank all the witnesses in advance for participating today.

Our first panel will consist of Dr. William Smith, Commissioner, Office of Education; Dr. Gerald Gipp, Deputy Commissioner, Office of Indian Education; Dr. John Tippeconnic, Associate Deputy Commissioner, Office of Indian Education; Ms. Judy Baker, Branch Chief, Division of Local Educational Agency Assistance, OIE. If you will proceed in any fashion you have decided to proceed, you are welcome to do so.

STATEMENT OF DR. WILLIAM L. SMITH, COMMISSIONER OF EDUCATION, OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY DR. GERALD GIPP, DEPUTY COMMISSIONER FOR INDIAN EDUCATION, OFFICE OF EDUCATION, HEW; DR. JOHN TIPPECONNIC, ASSOCIATE DEPUTY COMMISSIONER FOR INDIAN EDUCATION, OFFICE OF EDUCATION, HEW; AND JUDY BAKER, BRANCH CHIEF, DIVISION OF LOCAL EDUCATIONAL AGENCY ASSISTANCE, OIE

Dr. SMITH. Thank you, Mr. Chairman.

In order to expedite time on my last day as the Commissioner of Education, I will simply submit my statement, which has in it reference to the historic nature of this hearing and this day, so that we can go right to the matter of your questions.

[The prepared statement of Dr. William Smith follows:]

PREPARED STATEMENT OF DR. WILLIAM L. SMITH, COMMISSIONER OF EDUCATION, OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY DR. GERALD E. GIPP, DEPUTY COMMISSIONER FOR INDIAN EDUCATION, OFFICE OF EDUCATION, HEW; AND DR. JOHN TIPPECONNIC, ASSOCIATE DEPUTY COMMISSIONER FOR INDIAN EDUCATION, OFFICE OF EDUCATION, HEW

Mr. Chairman and Members of the Committee.

It is with a deep sense of history and pride that I appear before you this morning, on what is almost the last official day of existence for the United States Office of Education and the end of my tenure as the U.S. Commissioner of Education. Surely, history will record the fact that the U.S. Office of Education over its 113-year lifespan contributed substantially to the creation of the intellectual and cultural basis upon which this Nation has progressed.

Among the many principles, rights, and opportunities our founders held in high esteem were those dealing with freedom, individual rights, and the opportunity for all people of the fledgling Nation to pursue the good life. With a considerable sense of accomplishment we can, on this day, make an affirmative assessment of the contribution education has made toward the fulfillment of these profound goals. In order to hasten our progress and to enhance the future contribution which education can make to these noble goals, the United States Congress and President Carter have elevated the Federal interest in education to that of cabinet status.

May we all proceed from this important and educationally historical moment to vigorously pursue those unfinished goals of providing to all people in this land the educational opportunity to fulfill their inherent potentials. And, we are sure the entire educational community will in reality, as well as in symbolic gesture, utilize this transitional period

to convey to Secretary Hufstedler the commitment, the understanding, the support, and the trust which it has extended to the U.S. Office of Education, over the past.

Mr. Chairman, the following information is provided in response to your request for a summary of key issues involved in our administration of the Indian Education Act.

Indian Education Act--Part A

As you know, Mr. Chairman, Part A of the Indian Education Act provides entitlement grants to local educational agencies for the education of Indian children. The program was enacted in 1972. The resources are provided to address the special educational and cultural needs of Indian students enrolled in public elementary and secondary schools and in certain tribal schools.

For the next school year the Part A entitlement program will provide approximately $47 million in grants to 1,200 local public school districts and tribal schools serving an estimated 352,000 Indian students. The entitlement portion of the Part A program will result in an average per pupil grant of approximately $134 for each Indian student.

You specifically requested that I address the calendar of critical dates for the Part A program for the receipt of applications and the subsequent funding dates for next school year--1980-81. First of all, the Congress has been sensitive of the need to forward fund this program; therefore, the applications and approvals we are now reviewing will

result in grant awards to operate projects during the next school year. This year a deadline for the receipt of applications was established on April 7. Our staff gives each application a thorough review for appropriateness of the program and related legal matters. Notifications are also made to State educational agencies of the potential amount and number of grants to be made to schools and school systems in their respective States. At the same time, staff members are in contact with applicants to make any necessary revisions to the pending applications. All of these procedures will culminate in grant awards being made to eligible districts or schools around August 14. Normally we are able to make grant awards by July 1.

I know there is concern about the lateness of the Part A application deadline this year, since it obviously delays subsequent steps in the grant award process. This somewhat delayed schedule is attributable almost entirely to the program regulation publication schedule. As you know, we are obligated by law to wait 45 days after the publication of final regulations, for Congressional review of those regulations, before making grants under the relevant authority. We now anticipate the publication date for the Part A Program regulations to be May 21.

Prior to the enactment of the Education Amendments of 1978, the Department of Health, Education, and Welfare and the U.S. Office of Education began a regulation reform action based on such principles as clear exposition, curtailing length, non-repetition of statutory language, and more involvement from clients and other relevant publics

in the preparation of regulations. These well intentioned reforms, while needed, resulted in the creation of a longer preparatory period for the completion of regulations. This was particularly true for programs affected by the Education Amendments of 1978 since that law contained more than 200 pages of statutory language and either altered or created new programs in 29 instances. The Indian Education Act was one of these programs. The necessity to publish new regulations was accompanied by the need to develop new application forms for the Part A program. Our forms clearance procedures, which were also changed by the 1978 Amendments, created further delay in efforts to achieve a more optimum schedule for the critical dates for this program.

Mr. Chairman, these conditions are not cited as an excuse for our agency in the preparation of regulations and in achieving a more desirable schedule in implementing the provisions of the 1978 Amendments in our programs; rather, they are reiterated here simply to clarify the procedures which we followed in the preparation of regulations and in complying with other matters following the enactment of Public Law 95-561. At this point I also want to emphasize the fact that Secretary Hufstedler has set as one of her early priorities the revision of the entire process for the preparation of regulations which will expedite the process and preclude the kinds of delays that were encountered in the development of regulations following the 1978 Amendments. We in the agency find this a welcome objective and pledge our full cooperation to its attainment.

Nevertheless, Mr. Chairman, we certainly will return to an earlier more desirable schedule for grant activities under Part A of the Indian

Education Act for school year 1981-82. For next year, we expect to establish a deadline for application submission in January 1981, which will in turn enable us to make grants by July 1. This should bring the granting schedule back to the optimum timing for our award recipients.

Part B--Fellowship Program

Mr. Chairman, you also requested that we provide a response to the question of how we interpret the "related field" provision of the law in the Part B--Fellowship Program. As you know, Section 423 of the Indian Education Act authorizes the Commissioner to make fellowship awards to eligible Indian students in graduate and professional programs at institutions of higher education. These fellowships are awarded to Indian students to assist them in attaining "a post-baccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields."

In Section 187.4 of the proposed regulations for the Indian Fellowship Program a series of academic fields are listed which we view as related to those provided in the statute. For example, we list as fields related to medicine the following: veterinary medicine, nursing, dentistry, optometry, and clinical psychology. A field related to engineering is architecture. Related to business administration we list accounting, tribal administration, and public administration. Related to natural resources, are the fields of forestry, watershed management, range science, land-use management, fisheries, environmental biology,

geology, and oceanography. The proposed regulations also provide that the Commissioner may conclude that additional related fields are approvable on a case-by-case basis.

The Regional Information Centers

Section 1005(e)(1) of the Elementary and Secondary Education Act of 1965, as amended, authorizes the Commissioner to make grants to, and contracts with public agencies, State educational agencies in States enrolling more than 5,000 Indian students, Indian tribes, Indian institutions and organizations; or to make contracts with private institutions and organizations, to establish regional information centers. These centers are to be established to evaluate programs, provide technical assistance to Indian education grantees, and disseminate information to interested parties of successful models and programs of Indian education. You asked that we provide a status report on the progress being made toward the establishment of these centers.

On April 17 we issued a "Request for Proposal" announcement to design, develop, and operate five regional Indian Education Act Resource and Evaluation Centers. The closing date for the submission of bids is June 16, 1980. The contractual arrangement will call for a twelve month cost reimbursement project performance period. Two subsequent twelve month periods are contemplated at the option of the government. Five separate competitions are being held--one for each of the five regions.

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The map on the following page shows the outline of the five regions. We have also forwarded to your staff copies of the entire plan for the Centers as described in the "Request for Proposal" document.

The National Advisory Council on Indian Education

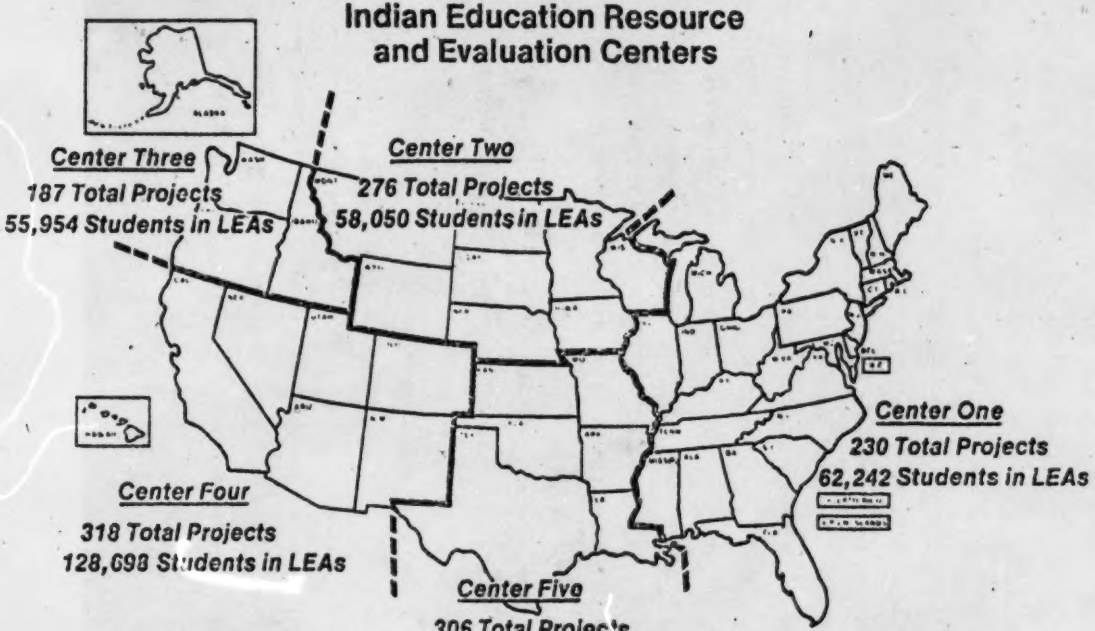
In accordance with your request for information concerning the process of filling vacancies on the National Advisory Council on Indian Education we are delighted to provide the following material. The law establishes a 15-member National Advisory Council on Indian Education appointed by the President. The law also calls for appointments to be made from lists of nominees furnished from time to time, by Indian tribes and organizations. The law stipulates that members should be appointed from diverse geographic areas of the country.

The entire procedure for filling vacancies on the Council is announced in the Federal Register. Our most recent announcement was printed in the Register of January 24, 1980.

In compliance with the law we periodically elicit nominees for Council membership from Indian tribes and organizations sending out an invitation accompanied by a form on which information is sought about the nominee. We suggest that nominations should be made from the following categories of individuals: (a) professional educators, (b) laypersons involved in education, (c) students, and (d) individuals with other than education experience.

Department of Education

Indian Education Resource and Evaluation Centers



FY 1979 Data

The procedure of eliciting nominations from Indian tribes and organizations usually produces from 70 to 100 nominees. From those nominees, the Deputy Commissioner for Indian Education screens the nominees and compiles a list of individuals recommended for appointment to fill the existing vacancies on the Council. In compiling the recommended list of nominees, every effort is made to maintain an equitable distribution of members by geography, by sex, and by the categories mentioned. The Deputy sends forward to the Commissioner the list of recommended individuals accompanied by a list of all individuals nominated. The Commissioner of Education then makes recommendations to the Secretary of Health, Education, and Welfare. The Commissioner also forwards a list of all the individuals nominated, as well as those recommended for appointment. The Secretary of Health, Education, and Welfare repeats this process in transmitting a recommended list of individuals for the President's review and necessary action.

Mr. Chairman, we believe it is vital, and consistent with Congressional intent, to have a comprehensive, open, and objective process for making appointments to the National Advisory Council on Indian Education. We believe our process meets these criteria.

In summary, Mr. Chairman, it has been a rather difficult period for us following the enactment of the 1978 Amendments to take all the administrative actions necessary to expeditiously implement the provisions of the law. We have not been able to get everything accomplished, as punctually as we would have preferred--not only in Indian Education, but in other

programs as well. We do submit that in most instances whatever delays we incurred were unavoidable in terms of the existing workload and the policies and conditions existing in our offices during this period. We have every reason to believe, however, that the establishment of the Department of Education will result in reducing the many clearance points in the Executive Branch through which agency policy must filter; and in providing a new stimulus to our programs for the attainment of their objectives.

Mr. Chairman, this completes our prepared testimony. My colleagues and I will respond to your questions.

Mr. KILDEE. This is the last day as such of the existing Office.

Dr. SMITH. Last working day. Tomorrow is the last day of the Office of Education and the Commissioner of Education, and on Sunday the Department will come into existence and we will begin the activities on Monday, the working day.

Mr. KILDEE. So we are in a rather historic crossroads here?

Dr. SMITH. Yes, sir; we are. I have brought with me Dr. Gipp and Dr. Tippeconnic as well as Ms. Baker, and we expect Mr. Riddle to be here.

Mr. KILDEE. You have submitted for the record your testimony.

Dr. SMITH. Yes, I have. It is self-explanatory, and we can go into the areas that will be of vital concern to this committee.

Mr. KILDEE. All right.

Would you describe to the committee the application process being used this year; how has this process changed?

Dr. SMITH. Dr. Gipp?

Dr. GIPP. First of all, there are two processes—the entitlement grant review process and also the discretionary grant process.

Would you like me to concentrate on either one or both of these?

Mr. KILDEE. The entitlement; if you could concentrate on that.

Dr. GIPP. OK; at the present time we have revamped our process somewhat from previous years to try to streamline that and make our responses back to the applicants on a more timely fashion.

The process begins, of course, with the closing date notice, notifying the potential applicants that we will be taking applications and establishing a deadline. This year the deadline was April 7.

We are now in the process of reviewing applications. We have changed the process in that we have eliminated a deficiency notice process. We are completing staff technical reviews on the evaluation forms which will provide direct feedback to our applicants.

We will not utilize the deficiency notice process because that process in itself created a lot of unnecessary questions between our office and the potential applicant.

The other change that we have made is that we are not utilizing field readers for this year's application process. By making that change, I think that we can get a better quality review. In addition

to that, it realizes a saving for our office of about $30,000 by eliminating that piece of the operation.

We anticipate that our grant award process will be late this year. We will be making grant awards somewhere around August 14. In general, that is the process that takes place.

The comments that go back from our staff directly to the applicants allow the applicant an opportunity to respond, if there are difficulties with that particualr application, so we allow a reasonable time for them to come back, make adjustments and, hopefully, we can approve their application.

Mr. KILDEE. So you will assist them if you find deficiencies in their application?

Dr. GIPP. Yes, we will prepare separate letters for each applicant if there are difficulties with their application.

Mr. KILDEE. Could you clarify further for the committee why this year's process was so late?

Dr. GIPP. That really involves and goes all the way back to the Educational Amendments of 1978, once the legislation was enacted and signed by the President, we undertook steps to develop regulations to address the changes in the law.

In addition, we recognized that there were a number of procedures that we needed to change to improve our process and also clarify what was allowable under the law.

We began to develop our regulations as early as August 1978, and the establishment of the application deadline all evolves out of our ability to develop regulations and to get them cleared by the agency.

Dr. SMITH. If I may, I would like to point out another item that has created a problem for this program as it has for many others. This was the establishment of our education division general administration regulation (EDGAR).

It took us longer as an agency to get this regulation out and as a result all of our programs that were affected by the Educational Amendments of 1978 were in fact off their normal track. It is not a function of the program itself but of our administration, and it is our hope with the new Department we will have the Education Department's regulations prepared on a more timely basis.

We have now gone over the rough spots but unfortunately, this program is one that was, in fact, caught in that delay.

Dr. GIPP. The other item I would like to add is that there was a need to revise all of our applications to coincide with the regulations, and to make a more concise and simplified process for our applicants. Of course, this involved the revision of each and every one of those application packets and subsequent clearance, so that again this is a time-consuming process which we had to work our way through. We could not begin to revise our application materials until we had the proposed regulations published in the Federal Register on June 29, 1979.

Mr. KILDEE. OK. So in subsequent years until Congress makes changes in new authorization, this should take place on a timely basis?

Dr. GIPP. Yes. We have already established the tentative time line, for fiscal year 1981 in order that we can begin to take applications around December or January 1, and we would like to confer

with this committee on that very issue because it does involve the counting of Indian children in this program.

We want to share that information with you and get your feedback on it, but we would anticipate in the 1981 grant cycle, for example, that we would establish our process early enough so that awards could be made very early in the spring in order that the public school district's contractual process not be disrupted. We believe we can make grant award announcements as early as March in 1981.

Mr. KILDEE. Very good.

Counsel have any questions on this?

Mr. LOVESEE. Yes, sir. Which set of regulations are you using in judging the application this year?

Dr. GIPP. We are operating on proposed regulations, and we anticipate that those regulations will be finalized and published by May 21.

Mr. LOVESEE. The finalization of the Office of Indian Education regulations was held up by the EDGAR regulations?

Dr. SMITH. Yes.

Mr. LOVESEE. The one could not have been finalized without the other?

Dr. SMITH. No; the stipulation was that for all educational amendments of 1978, the regulations must in fact be congruous with EDGAR.

EDGAR had to be opened and finally closed so we could then open other gates. This happened to about 16 or 18 of our programs.

Mr. LOVESEE. Sixteen or eighteen of the programs are in the same situation with late applications?

Dr. SMITH. Yes.

Mr. LOVESEE. Were they all in the same situation with respect to the applications going out 6 or 7 months after the proposed regulations were published?

In other words, if we are working under proposed regulations, and they were published last June, I am wondering if the application packet, based on those regulations, could have gone out prior to the time it actually did go out?

Dr. SMITH. Procedurally, the normal steps would be to have final regulations before you send out your applications so that all of the applicants would in fact have a final set of regulations to work against.

We, unfortunately, were squeezed so tightly that we attempted to make sure that the final regulations were in conformity, where those programs allowed it, and in this case it did, consistent with the proposed regulations which allowed us then to go ahead with the steps to get the printing of the application because it would be consistent.

You really cannot expect the applications to go out until you have a final regulation.

I made the determination that since we had five or six that were so relatively close that they could go ahead so that they would not be so far behind that it would logjam our contracting grants process, because they have to work on a schedule as well.

We were pushing more and more of our programs toward the end of the fiscal year for completion, and that would have made

the workload too great, so on those programs where they had reasonableness in terms of conformity from the proposed regulations to the final regulations, we did then allow them to begin the process on their application.

The hope, of course, was that the EDGAR regulations would have been out almost 2½ months earlier than they did get out. The programs had to hold and hold and hold before they could even submit their applications.

Dr. TIPPECONNIC. To add a little more detail to this, we published the proposed regulations on June 29. Nine public hearings were held out in the field in August, in addition, written comments were received.

Overall we had over 400 comments on our regulations, and we did not finalize our applications until we looked at those comments to make sure they would not change the final in any significant way.

Once we did that then we finalized our applications packages.

Mr. LOVESEE. The over 400 comments will not alter the regulations as proposed in any significant way?

Dr. GIPP. Not in any major policy way. A lot of the comments deal with how the regulation was written, so we don't anticipate there is any major policy change in that regard.

Dr. SMITH. We also were able to develop a memorandum. You may want to discuss that to further clarify the matter.

Mr. LOVESEE. As you brought up on the allowing applicants to respond, originally there was a plan to screen and cut ineligibles based on incompletion of application forms; is that correct?

Dr. GIPP. Correct.

Mr. LOVESEE. That is no longer the plan that we follow?

Dr. GIPP. We are following that plan.

Mr. LOVESEE. Describe how applicants will be allowed to add to or argument their applications through this process?

Dr. GIPP. Certainly; I would like to ask Dr. Tippeconnic to respond to that.

Dr. TIPPECONNIC. The process really is a two-step one. First, when the applications arrive a technical review screening is made.

We look for those elements that are within the application that make up a complete package.

The people doing the technical screening determine if any information is missing. Those found lacking are then forwarded to the branch chief and to the Division Director for consideration.

A determination is made and they are either put back into the process or they are determined ineligible.

The second major step is a quality review; the quality review does not necessarily look at the assurances, but here involves a more detailed analysis of the educational value of the application.

The quality review deals with the needs assessment, the project design, the evaluation, the budget, and the parent committee. The interrelationships between these elements are considered. There must be a flow between these elements that shows educational value.

This year we have received 1,173 applications. Out of these 1,173, 6 are being questioned as ineligible at the present time. Of these

six, one application was submitted by an organization that was not an LEA. It is clearly ineligible.

Two applications were submitted by parent committees. The LEA did not officially submit the application. We have been back in contact with the LEA to get some clarification. Additionally, three have been determined to be incomplete.

Mr. LOVESEE. Did you explain what the term "incomplete" means?

Dr. TIPPECONNIC. In the application package, we ask for a complete application.

A complete package will contain evidence that there was a public hearing, that an Indian preference assurance was signed, that a needs assessment form is completed, and completed forms on the parent committee, supplemental programing, administration and the Indian student count.

All of these documents represent a complete package. If any of these are lacking, it is an incomplete package.

Mr. LOVESEE. If any of those would be lacking, they should be on Dr. Gipp's desk undergoing review?

Dr. TIPPECONNIC. Yes; they are undergoing review if any of those are lacking.

Mr. LOVESEE. Who was responsible for doing the initial screening with respect to the office staff? By professional or regional staff individuals?

Dr. TIPPECONNIC. The screening was done by professional staff. We have program specialists at various grade levels and they performed that task. It is a task where a check sheet is used.

They check for those items that make up a complete package. I might add here that the application package has been revised this year and we think that it is a lot clearer and that applications we are receiving this year substantiate this.

We know exactly where to go within that application to find what we are looking for. We have devised a format on which they can report information to us, so it is a matter of going and looking to see if it is there.

Now, if the information is not where it should be, it is indicated but it goes on the screening sheet and goes to the next step in the process where another check is made.

At times some of that information may be in another section of the application. If it is there we account for it.

Mr. LOVESEE. The original screening was not done by either clerical or training or internal staff?

Dr. GIPP. Absolutely not; it was all done by professional staff?

Mr. LOVESEE. Were any additions or augmentations made to any of the applications by those individuals who did the initial screening process?

Dr. SMITH. What do you mean by "augmentations"?

Mr. LOVESEE. Were any school districts contacted because of any absences or lack of information in a particular packet, and information obtained which was then put into any of the application packets?

Dr. TIPPECONNIC. No; they were not. Only did the initial screening, was done using the check sheet to identify what was there and

what wasn't there, and went on to the next step, and if there were any questions it was clarified there.

Mr. LOVESEE. If a school district submitted an application which did not include a count of eligible students, then it would be within one of those six; am I correct?

Dr. TIPPECONNIC. That is correct.

Mr. LOVESEE. Would we be able to obtain a list of the six applications which are currently undergoing that particular process?

Mr. KILDEE. Yes; if you would supply that to the committee.

Dr. SMITH. We will supply it for the record.

Mr. KILDEE. We will keep the record open for that purpose.

[The information referred to above follows:]

SIX LOCAL EDUCATIONAL AGENCIES WITH REJECTED APPLICATIONS

1. Drake University, Des Moines, Iowa.
2. Pinconning Area School District, Pinconning, Mich.
3. Castle Rock School District, Castle Rock, Wash.
4. Port Edwards School District, Port Edwards, Wis.
5. Fredonia/Moccasin Unified, Fredonia, Ariz.
6. Lower Kuskowin School District, Bethel, Alaska.

Mr. LOVESEE. I have a copy of a memorandum which was written on April 25 by the branch chief of the division of local educational agency assistance, Mrs. Baker, which discusses the screening process and the use of a form.

I would like to ask Dr. Gipp, would you explain the use of this particular form which has been filled out, and I have a couple here that have been filled out and sent on to the LEAA's involved.

Is that meant to take the place of a deficiency or to allow them to augment any of their applications?

Dr. GIPP. This is an internal document for review by our staff, basically. Now, I need to clarify that if there were miscellaneous pieces of information that were not where they should have been, we have tried to give that applicant the benefit of the doubt to look throughout their application for that information, so that if it is there, then we are allowing a continuance of a review on that application.

Now, we think that is fair because this is the first time that we are taking this measure, to try to get full and complete applications from our grantees, and rather than coming down on them very hard, if one piece of information is missing we are trying to be as flexible as possible in that area.

We are dealing with an entitlement program. It is not competitive and, of course, we are not interested in cutting out school districts but, at the same time, our experience with this process has been this:

Many of our applicants have not taken this process very seriously. As a result, in many cases they file an application which contains the cover page and has a signature on it, and then they expect through the deficiency process notice to write their application some month or two months later.

Now, that creates some real problems for us from the standpoint of trying to get our grant awards out, so that is one reason why we are trying to move toward the direction of obtaining full and complete applications from the outset.

Mr. KILDEE. Are you saying that they get a signed application in, knowing full well it is deficient, just to make the deadline with the idea that later on they will supply the information?

Dr. GIPP. They were aware that the past process allowed them to come back and complete their application. As a result, it was as high as 98 percent of the applications received were considered deficient. This year by moving in this direction, hopefully we will have more complete applications and create less staff work and, also, cut down the timelag for making grant awards.

We are not interested in eliminating the school district simply on some rule or regulations.

Mr. LOVESEE. In other words, the 1,167 who are not involved in the six which are on your desk currently undergoing review will all be sent on to the quality review process?

Dr. GIPP. That is correct.

Mr. LOVESEE. If there is anything lacking within their applications they will have been contacted and allowed to submit that to make their application complete?

Dr. GIPP. If it is within reason, yes.

Mr. LOVESEE. What would be the guidelines for within reason, sir?

Dr. TIPPECONNIC. If I may before I answer that, I would like to correct my statement of a few minutes ago.

Of the six that are being held, none of them are being held solely because we lack the total student count, even though that is required as part of the complete package. None of them are being held for that reason.

The ones that are being held, which we will provide to you, are being held because they have a number of those concerns missing.

Mr. LOVESEE. Are there guidelines?

Dr. GIPP. For example, they may not have even conducted a needs assessment. It is impossible to back up with that particular applicant and say, all right, you can now step back and conduct a needs assessment.

That is a basic requirement that should take place months ahead of the application deadline so, obviously, that is something we cannot allow therefore that application will be rejected.

Mr. KILDEE. Well, what guidelines do you have when you say they were within reason? Are there any specific guidelines or is that a matter of judgment? Who makes that judgment?

Dr. GIPP. Those are judgments that are made by the managers and finally I review all of those decisions.

Dr. SMITH. There is in the Office of Education a directive III-2 which specifies the manner in which all discretionary programs must be reviewed.

On the matter of technical review, and I don't know whether Dr. Gipp responded to counsel's question with regard to whether or not any of them have been contacted, but there is a provision which does allow the program office on the technical review side, as they look for information, to in fact contact an institution or a local educational agency to find out whether or not they have submitted it or the like.

In this case I would think in light of the way they are attempting to include all of them, there may have been contacts to make

sure that all of the items, all of the criterion items had at least been responded to. That they can do.

In discretionary programs administered by our agency once the application goes to the quality review, they do not have any authority to go back to the grantee, because that becomes a part of the contracts and grants process and only the contracts and grants office is authorized to then talk to any of the applicants, but during the technical review process they may.

Now, I don't know whether counsel's question to you relative to whether or not there had been contact had to do with discretionary on entitlement programs.

Mr. KILDEE. Go ahead then.

Dr. GIPP. There is a slight difference in this particular program. It is entitlement. Yet in a sense it is semidiscretionary because, unlike title I, where they had student counts and they came in and received the funds based on a count of the children, we can reject it; that is what we are talking about, so in that sense it is a semidiscretionary grant process.

Yes; it still falls under the category of entitlement program, so the Office of Indian Education does have the flexibility to go back to that grantee to clarify programmatically what they are doing. If the application requests services for which they are not eligible under the law, it is our responsibility to clarify that with them and provide them the opportunity to revamp their application so it does become eligible under this program.

Mr. KILDEE. In the technical review process, when you see a deficiency, how do you communicate with the school district, by mail, telephone?

Dr. GIPP. Depending on the nature of the issue, first all of this will be put in writing to each and every applicant so they may clearly understand and see in wrting what the issue is.

If there is any need for telephone communication, we will do that also.

Mr. KILDEE. Supplementary to the letter or to expedite time wise?

Dr. GIPP. Depending on the issue, perhaps it may be a very minor thing. It might be something that needs to be clarified, and if we can do that by telephone, then it is much easier to do it in that fashion.

Dr. SMITH. In most cases procedurally, the program office is in a position to make the phone call to say your application is received but there are three questions.

We may be able to resolve them here. You may need something specific in writing, so will you begin to work on it so you can respond.

Dr. TIPPECONNIC. In response to the screening sheet, this is part of the documentation that will go back to the grantee if there is incomplete information or information missing. This is a screening sheet that looks at required assurances.

We will also send along with the screening sheet our quality review form. Our quality review form addresses those areas that I mentioned earlier.

If there are any questions we make those comments on the quality review form. This screening sheet will accompany that the quality review form to the LEA.

Note that on the bottom of the sheet it says, "Questionable signature."

The LEA must sign the application. The LEA person who has authority to sign is the superintendent. If the superintendent wishes for someone else to sign, if there is an LEA representative, then they must tell us that and issue a delegation of authority so we will have a contact person at the LEA level.

Mr. LOVESEE. Am I correct then, just for point of clarification, that this particular form will be sent LEA's who have sent in deficient applications and by that I mean something is missing or not exactly correct on the form, and they will be provided an opportunity to supply that information prior to the quality review process going forward?

Dr. SMITH. If it warrants it, because if it can be done by telephone, then they would not receive one in the mail.

Mr. KILDEE. In other words, some could be handled exclusively by telephone?

Dr. SMITH. Yes.

Mr. KILDEE. Without sending a letter out to that school district?

Dr. SMITH. Yes.

Mr. LOVESEE. Would those telephone calls be logged in any fashion so the information would be listed when it was requested and any other actions that were taken?

Dr. TIPPECONNIC. Absolutely.

Mr. LOVESEE. Would those be done by the branch chief or by the individual who would be taking care of this technical review process?

Dr. GIPP. More than likely it will be done by the professional staff.

Mr. LOVESEE. On an ongoing basis?

Dr. GIPP. Yes.

Mr. LOVESEE. Have they been doing that so far? This process is pretty much in the process of wrapping up or at least it is according to your time chart. Have they been doing that all along?

Dr. TIPPECONNIC. Let me clarify something if I may. We are in the quality review process right now. The initial screening is finished.

Mr. KILDEE. Technical review is finished, and now you are on the quality review?

Dr. TIPPECONNIC. That is correct.

Mr. LOVESEE. So these letters have gone out?

Dr. TIPPECONNIC. Not yet.

Dr. GIPP. It makes no sense to send the letters out at this point until we have the quality review. Otherwise, we are doing a double workload, so until we finish the quality review we will not make that kind of contact by letter.

Dr. SMITH. Of the 1,100 that came in, there may be some that have an item or two that will require a submission of a document, but it does not disqualify them from going to the next step for the quality review. So, for the application while it is in the pipeline receives both screening and a quality review.

Mr. LOVESEE. They will undergo the quality review, find out what is necessary, go out with the letter, get the letter back, or re-review under a quality review, I assume, situation.

Now, Dr. Smith, I am a bit confused.

You mentioned earlier, once it goes into a quality review that only the grants division is able to get in contact with the particular grantee; is that correct?

Dr. SMITH. That was for a discretionary program because this is an entitlement program, there may be a difference. We have in title III of the Higher Education Act under the developing institutions program regulations that are written specifically that spell out the process of evaluating proposals which is given the Office of Education III-2 standard.

This may be the case in that it is both semidiscretionary but also an entitlement.

Mr. LOVESEE. I understand now. I wanted that for clarification as well, and one final question, if I may.

So far some LEA's may have been contacted and afforded an opportunity to add information to their applications by telephone, by the program specialist during this particular review process. In addition, however, some may in point of fact receive this opportunity after the quality review.

Dr. SMITH. Yes, but that is only during the technical review process.

Dr. TIPPECONNIC. We are right in the middle of the quality review process.

Some LEA's may have been contacted, but we are going to try to do as little as possible over the phone. We would like to send out the quality review and the screening sheet to as many as possible, so we will have documentation and any concern we have, and we also want to give the LEA's a time period of 30 days on which they can respond to our request.

For this year these quality review forms have not gone to the LEA's, at this time. This year our procedure calls for notifying them of the total amount of money they are entitled to which is obviously linked to their enrollment.

Mr. LOVESEE. Then the initial statement that was made with respect to none of the LEA's having been contacted and given an opportunity to augment their applications with additional information is subject to the caveat that you have just given. Which ones have been contacted over the phone and provided this opportunity during the technical process?

Dr. TIPPECONNIC. Some of the LEA's have been contacted and asked for a correct figure on their Indian student enrollment count.

Dr. SMITH. There were some missing elements and approximately 100 calls were made to pick enrollment counts.

Mr. LOVESEE. Were those calls logged in any fashion so there is at least within the files or the applications involved something showing what was done?

Dr. SMITH. I am assuming; we can check that. I am assuming, if program specialist A has six items and has gone through and found one of those items missing that they may have been able to make the call and record it, and I am assuming there should have been

some record of the phone call but it would be individual, not cataloged in a particular place.

Mr. KILDEE. That would be the individual's own telephone log?

Dr. SMITH. Yes, it should be right on the screening sheet that indicates if they had to make a phone call.

Mr. KILDEE. That would be prudent to include it.

Dr. SMITH. We will submit the process for the record so that you will then know exactly how that took place.

Mr. LOVESEE. We may also wish to seek access to some of the telephone calls that were made too at a later time.

Dr. SMITH. Yes; if it is there we certainly will submit it. If it is not, we will submit that we have not told you the truth.

Mr. LOVESEE. These phone calls were made pursuant to a policy and a directive from you.

Dr. GIPP. That is correct.

Mr. KILDEE. You mentioned 100 telephone calls; is that for 100 different applications?

Dr. GIPP. That is correct.

As Dr. Tippeconnic has mentioned, the major concern that we have is accuracy of the count for the applicant so that we can determine their final entitlement, and until we are clear as far as that total count we cannot derive the entitlement for a particular school district, therefore so we have to make sure that the count is accurate and that is essentially what the calls have been made for; not necessarily to augment their program application.

Mr. KILDEE. This policy of calling would be universal in applicability and not selective then?

Dr. SMITH. It would be a standard operating procedure. If in the technical review there is a missing element that is necessary to entitle them either to a sum of money or to the continuation of the process, the specialist responsible for the review would also be responsible for the securing of that information.

If it can be done by telephone it would be. If it were more serious than that, the phone call would be made to indicate that they need to submit in writing X, Y, or Z.

Mr. LOVESEE. The professional staff who did the original screening would be an 11 or 12?

Dr. SMITH. Or 13 or 14 or 15. It could be 7, 9 or 11.

Mr. LOVESEE. Would the 7, 9 or 11 have the designation as professional staff?

Dr. SMITH. Yes.

Mr. KILDEE. Mr. Erdahl?

Mr. ERDAHL. As I listened to this testimony today and read some of that material, I am concerned that we as Members of the legislative branch and you as members of the administrators of the program don't forget the main objective, that is quality educational opportunities for Indian children. This may be last because of the complexities and intricacies of statutes, regulations, guidelines, applications, programs and proposals.

I guess what I am saying is that we must be vigilant, I think, so that this bureaucratic hoop dance doesn't get too expensive and too complicated.

One question deals with part A of title IV. The 506 eligibility forms which were revised under the 1978 educational amendments

have caused considerable concern in the field about whether tribal enrollment numbers, along with tribal affiliation of each applicant, were necessary to include on the forms this year to receive funds under the act.

I know you have already touched on part of that, but for the record could you briefly describe what the current status is regarding information requested for eligibility, I guess from that comes a very fundamental question, are any Indian children being denied assistance under title IV funds, because they have not filed complete forms?

Dr. SMITH. Mr. Erdahl, I would like to respond to the first part of your comment and then have Dr. Gipp respond to the second.

You are absolutely right. It's a challenge, and it gets to be more and more of a challenge as we get more and more regulatory in the process that we have gone through.

The fact that even though we have had to be bureaucratic, of 1,100 and some odd applications, only 6 are not in the quality review process at this moment, and that is to me an extremely find record for this particular program.

We have been fortunate that, however bureaucratic it is, to insure that we have met the requirements of eligibility, they are all in that process and, therefore, they do have access to opportunity.

I am very pleased to find that percentage. With an entitlement, the effort is really to be sure that everybody has an opportunity to access. I am hoping when the final count is made that it is the total 1,100 with nothing that shows in eligibility. When one is not a local education agency, it does become ineligible.

The other two were parent advisory committees but were not submitted by the LEAA. Those are ones that don't meet the criteria that has been provided by the statute and other than that I think it is safe to say that we are moving in more than a satisfactory way in response to the question of what is the real goal.

Mr. ERDAHL. I appreciate that assurance.

Dr. SMITH. Dr. Gipp?

Dr. GIPP. Congressman Erdahl, with regard to your initial comment, I, of course, share that, along with the Commissioner. We think that the process that has been put in place will help us move in the direction of talking about quality education.

Too often I think our program has been chastised for not providing programs that are really meeting the needs of Indian children, and I think that is the bottom line for our program office.

Regarding the use of the 506 form, the 1980 grant cycle that we are presently in will not remove any students from it that were counted last year.

We have extended the requirements of providing the documentation with regard to tribal affiliation, and that will not take place until the 1981 grant cycle, so at the present time we do not anticipate that there will be any major change in the pupil count or applications.

Mr. ERDAHL. Another question, and this has been touched on too; what about the role of the Parent Advisory Committee in verifying the Indian count in the various districts? I suppose this too is a

challenge, I am sure, maybe especially in urban centers where we don't have the geographic cohesiveness or identity availability.

Would you care to comment on that?

Dr. GIPP. Well, I think the fundamental difficulty in trying to utilize parent advisory committees to screen students and provide final counts for school districts is that the information is privileged information and we cannot require that parent committees review each and every one of those forms because it is within the right of parents to determine whether or not that information is released to a parent committee. While that sounds like a reasonable approach, if a parent refuses to release that information to that parent committee, then the process breaks down.

There is also another fundamental principle that we are talking about as far as accepting and recognizing eligibility of students under this program, and that relates directly to the definition itself. The definition requires that you must be a member of a tribe or band or organized group of Indians. To simply say that a conglomeration of people sitting somewhere in an urban situation can declare that a given student is an Indian, carries the risk of violating the principle of tribes determining membership. That is a real fundamental concern that I have in the operation of this program, and I hope that through the definition study itself that this very critical issue can be studied very carefully.

Dr. SMITH. We have two things that are operating now that we have not yet had data from that will be helpful to us, the 506 form and the definitional study.

Our feeling is that we will have even for fiscal 1981 a provision which will insure that urban Indians will not be lost while that definitional study is going on, and we think that once that has been established, provisions have been made which will allow for any Indian anywhere to be identified, and those who need time to verify their tribal relationships will have that time to do so and not be disqualified during that period.

Mr. ERDAHL. Thank you very much. I am pleased to hear that as well.

Another question, how helpful have the State educational agencies been in this whole process? I am sure that varies from one section of the country to another, but do you have any comments on that? What has been the attitude of the performance of the SEA's?

Dr. SMITH. Let me cite an incident that we had not too long ago in New Mexico. It did not arise as a result of the Indian education program but as a result of the impact aid with the Indian education provision where it specifies that the local educational agency must acquire information from the Indian tribe or parents from which policies and procedures are to be established by that local educational agency.

It turned out that in New Mexico the question of consultation became the issue. Our general counsel's interpretation of consultant meant simply that papers could be passed, a questionnaire or the like, from which information could be gained which is in fact legal.

The Indians and members of our program staff thought that consultation meant they had to have a conference and to discuss it, and the Indian groups felt that that had not taken place.

I finally found that one of our grantees who had submitted their application was not going to be funded until such time as we had clarity from it, so I called the superintendent of schools who immediately attempted to intercede so as to get clarity from both the Indian group and from the LEA.

I think there is variation from State to State with regard to whether or not legally the State educational agency gets into the mix early and very often what they attempt to do is to try to get the program office and the local educational agencies together on the matter under discussion.

When that does not occur, we have been very fortunate to find responsive State educational agency chiefs who have attempted to help us go through that process.

Mr. ERDAHL. OK, Mr. Chairman.

I appreciate the specific responses from the gentlemen on the committee and want to thank them and thank you, Mr. Chairman.

Mr. KILDEE. Thank you, Mr. Erdahl.

Ms. Vance, do you have any questions?

Ms. VANCE. At the beginning of the year there was quite a bit of concern in the field about the misunderstanding regarding information the Office of Education was requesting on the 506 forms. There have been two different memoranda circulated to the field attempting to explain the background of the changes in information requested on the 506 form.

Do you feel people in the field understand why the new data requests are coming out on the 506 forms?

Is there still suspicion that the Federal Government may be trying to tamper with the definition of "Indian"?

Dr. GIPP. If you review the history of Indian affairs in this country, there will always be that suspicion.

Dr. SMITH. Not only Indians are suspicious of the Federal Government sometimes.

Ms. VANCE. I am sure, but you recently sent out a new letter that accompanied the 506 form.

Have you received any reaction from that new memorandum yet, or do you feel that the Indian community are beginning to understand why those changes were made in the 506 form?

Dr. SMITH. We attempted to look at the first set of problems that Mr. Kildee alerted us to, and the program staff worked with members of the congressional staff to draft the letter that clarified the 506 package.

We spent a great deal of time and had private meetings to make sure that everyone understood what it meant, because it is clear that this committee does not want a single eligible Indian who may not necessarily be on a reservation or immediately identified lost.

We held up, as a matter of fact, all the other processes until that was taken care of which added to the delay.

It is safe to say that that document did go out. With it went the explanations and we have discovered from the office but I don't know from the immediate Office of the Deputy Commissioner that the field has been extremely responsive.

One of the reasons, incidentally, the fact that most of the organizations and most of the tribes recognize the importance of the identification for children, and I think that has acted as an impetus.

I had an Indian friend come in who pointed out that while they had some grave concerns, they were in fact filling out those forms.

We would be more than pleased to submit to you the 506 forms and the clarifying letters. We will certainly do that.

[The Indian student certification form (OE-Form 506) and related documents follow:]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

FORM APPROVED
FEDAC NO. R 43
APPROVAL EXPIRES 9-30

INDIAN STUDENT CERTIFICATION

(Part A, Indian Education Act)

In order to apply for an entitlement grant under Part A of the Indian Education Act, your school district must determine the number of Indian children enrolled in its schools.

Any child who meets the following definition from the Indian Education Act may be counted for this purpose.

"Indian" means, "any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940, and those recognized by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native...".

You are not required to submit this form. However, if you choose not to submit it, your child cannot be counted for entitlement funding under Part A of the Indian Education Act.

NAME OF ELIGIBLE CHILD

ADDRESS *(Include number, street, city, State and ZIP code)*

PART I – MEMBERSHIP INFORMATION

WHO IS A MEMBER OF A TRIBE, BAND, OR OTHER ORGANIZED GROUP OF INDIANS? CHECK ONE OF THE BOXES BELOW AND ANSWER THE QUESTIONS FOR THAT PERSON

1. ☐ CHILD HIMSELF/HERSELF 2. ☐ NATURAL PARENT *(ancestor, 1st degree)* 3. ☐ NATURAL GRANDPARENT *(ancestor, 2nd degree)*

IF YOU CHECK BOX 2 OR 3, ENTER THE NAME OF THE PARENT OR GRANDPARENT

A. WHAT IS THE NAME OF THE TRIBE, BAND, OR OTHER ORGANIZED GROUP OF INDIANS?

B. COMPLETE COLUMN 1 OR COLUMN 2. THE TRIBE, BAND, OR OTHER ORGANIZED GROUP IS: *(Check all the boxes that apply in the column you select)*

COLUMN 1	COLUMN 2
☐ FEDERALLY RECOGNIZED	☐ NOT FEDERALLY RECOGNIZED
☐ ESKIMO, ALEUT, OR OTHER ALASKAN NATIVE	☐ TERMINATED
	☐ STATE RECOGNIZED, BY THE STATE OF_____
	☐ OTHER ORGANIZED GROUP

C. WHAT IS THE INDIVIDUAL'S MEMBERSHIP NUMBER? *(Where applicable)* _____

CHECK ONE. THIS IS AN ☐ ENROLLMENT NUMBER ☐ ALLOTMENT NUMBER ☐ OTHER *(Explain)*

D.1. IS THERE AN ORGANIZATION WHICH MAINTAINS MEMBERSHIP DATA FOR THE TRIBE, BAND, OR OTHER ORGANIZED GROUP? ☐ YES ☐ NO

2. IF "YES", GIVE THE NAME AND ADDRESS OF THE ORGANIZATION

NAME OF THE ORGANIZATION	ADDRESS

3. IF "NO", EXPLAIN HOW THE PERSON INDICATED MEETS THE DEFINITION OF INDIAN GIVEN AT THE TOP OF THIS FORM

PART II – SCHOOL INFORMATION

(Print the name and address of the public school the child now attends and enter the child's grade level below.)

NAME OF SCHOOL	ADDRESS *(City and State ONLY)*	GRADE

PART III – PARENT INFORMATION

I UNDERSTAND that falsification of information on this form is subject to penalty under law.	SIGNATURE OF PARENT	ADDRESS	DATE
I CONSENT to release this form to the Part A Parent Committee for review. *(Optional)*	SIGNATURE OF PARENT		

OE FORM 588, 8-79

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

Dear Parent:

The Office of Indian Education provides money to public school districts under Part A of the Indian Education Act. (The Act is also called "Title IV.") The district uses this money to meet the special educational needs of Indian children.

The amount of money that goes to a school district depends on how many Indian children are enrolled in the district's schools. In order for your child to be counted by the district for this purpose, it is necessary for you to fill out and turn in the Indian Student Certification Form (also known as the 506 Form) that is enclosed with this letter.

The 506 Form has been revised substantially to comply with the Education Amendments of 1978 (Public Law 95-561). In addition to requesting additional information to establish eligibility, the Congress has also directed that the Assistant Secretary for Education conduct a study of the Title IV definition of Indian.

For This Year Only. The 506 Form will be used to provide data necessary for that study. Some of the questions on the form are necessary only for the study and are not necessary for establishing the eligibility of your child. However, your child may not be included in your district's eligibility count unless you provide the following information on the form:

- o Name and address of the eligible child.

Part I - Membership Information

- o Identification of person through whom the child claims eligibility (child himself/herself, natural parent, or natural grandparent).
- o Name of tribe, band, or other organized group of Indians. (Item A)
- o Membership number or enrollment number, where applicable. (Item C)
- o The information requested in Item D, including an explanation of how the person indicated meets the definition of Indian if you answer "No" to question D.1. (The definition is printed on the top of the form).

Part II- School Information

- Name and address of the school attended by your child.

Part III- Parent Information

- Your signature and address. (Note, however, that the consent to release the form to the parent committee is optional.)

You must prepare and turn in to the school district a form for each of your children that you wish to be counted. However, once you have turned in a form for a particular child, that form will stay on file with the school district. Therefore, as long as the child goes to any one of the district's schools, you will not have to fill out another form for that child.

Please be sure to sign the certification on the next to the last line of the form. You may sign the form if you are the child's natural parent or if you are acting in the place of the natural parent. If you are not sure whether you are the proper person to sign the form, or if you have any other questions about the form, please contact your school district office, or your local Title IV parent committee.

If you want your local Part A parent committee to have access to the completed form, sign the consent line at the bottom of the form. If you choose not to sign the release, your child will still be counted if the required information is provided.

Please note that, according to law, if you falsify any information on the form, your child may not be counted by the district for the Part A program at any time in the future.

I know that you have filled out other forms like this before and that you may find this form to be burdensome. However, we are now required by law to ask you these questions. The information you provide will be helpful both to the Office of Indian Education and to the Congress in understanding the great need for Title IV and in obtaining a clear picture of who is participating in, and benefitting from, the Title IV program.

Thank you for your time and for your cooperation.

Sincerely,

Gerald E. Gipp

Gerald E. Gipp
Deputy Commissioner
Office of Indian Education

Enclosure

Sept. 27

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

Dear Grantee:

This letter is to provide you with a status report on the Indian Student Certification (506) form used to establish student eligibility under the Indian Education Act, Part A, entitlement program for local educational agencies. The form is used to determine the number of Indian students enrolled in the public schools of your district, and, consequently, the amount of funds to which the district is entitled.

Because the Education Amendments of 1978, P.L. 95-561, require certain information to be requested on the form, we have had to substantially revise the form. The process of drafting, administratively clearing, and printing the revised form is taking far longer than we had hoped. Consequently, we do not expect to mail the revised forms to you until approximately November, 1979.

In order to ensure that you have sufficient time to distribute and collect the forms, I have decided not to require the use of the revised forms until the fiscal year 1981 grants process. However, when the new forms are available, we will ask each district to distribute and collect them as soon as possible. It will be particularly important for the district to have on file a completed form (as revised) for each child whose eligibility is being established for the first time this year.

For the fiscal year 1980 grants process, for which applications are due in early Spring, 1979, please notify us, in writing, of the correct count by October 31, 1979.

Please be reminded that it is the responsibility of the school district to ensure that each child included in its count is an Indian as defined in the Indian Education Act. It is also the responsibility of the district to ensure that it has on file a current 506 form, or other document that has been approved by this Office, for each child included in its count. The Indian Education Act provides that any falsification of information provided on the district's application for funds under Part A is punishable by impoundment of unused funds and in ineligibility for receiving any future entitlements under the Act. Information provided by a school district on the number of Indian students enrolled in its schools is considered to be an integral part of its application.

The revised 506 form will also be used, for the coming year only, in conjunction with a study and analysis of the definition of Indian being carried out by the Assistant Secretary for Education. This effort is required by the Education Amendments of 1978. It will be most helpful if completed forms are sent in to the Assistant Secretary by May 15, 1980. Further instructions on this process will be sent to you at a later date.

If you have any questions about the items discussed in this letter, please feel free to call your program specialist. I appreciate your cooperation in this entire process.

Sincerely,

for Gerald E. Gipp
Deputy Commissioner
Office of Indian Education

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

October 17, 1979

Dear

The purpose of this letter is to provide information and indicate the SEA role in the identification of Indian students eligible for services under Part A of the Indian Education Act. The Education Amendments of 1978 authorized the Indian Education Act for an additional five years. The law mandated a number of changes in the Act. One amendment concerns data collection and requires a change in the Indian Student Certification Form (506 Form).

Enclosed for your information is a packet that has been sent to each LEA. Included are the new Indian Student Certification Form, letters of instruction to the LEA and to parents, and a 506 Form status report. The 506 Form has been coordinated with the Committee on Evaluation and Information Systems, Data Acquisition Subcommittee, of the Council of Chief State School Officers for advise and approval.

In the past the role of the SEA in our Part A grant process was to verify the Indian student count prior to submission to OIE. The 506-1 Form was used for this purpose. Effective with the FY80 grants process, the 506-1 Form will be part of the application process and will come directly to OIE from each LEA. The SEA will no longer verify the Indian student count.

If you have any questions concerning this matter, contact my office or Judy Baker at (202) 245-7525.

Thank you for your cooperation.

Sincerely,

Gerald E. Gipp
Deputy Commissioner
Office of Indian Education

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Oct 24.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

Dear Superintendent:

Enclosed with this letter is the new Indian Student Certification (506) Form that is used to establish the enrollment count of Indian children under Part A of the Indian Education Act. As you know, the amount of your Part A grant is determined by a formula that takes into account the number of Indian children enrolled in your district's schools.

The 506 form has been revised substantially to comply with the Education Amendments of 1978 (Public Law 95-561).

The district is required to have a form on file for each Indian child that it includes in its count. However, once a parent has completed a form for a child, another one need not be completed as long as that child remains enrolled in one of the district's schools.

The Office of Indian Education will periodically review the forms as part of its regular monitoring of the Part A program. However, it is the responsibility of the school district to ensure that each child included in the count is an Indian as defined in the Indian Education Act. That definition is reprinted at the top of the student eligibility form. Please note that eligibility is not based on blood quantum. If you cannot reasonably resolve questions that may arise concerning the definition, you may call upon our office for assistance.

In addition to requiring that we request certain information on the form, the Education Amendments added several provisions regarding eligibility. These provisions are listed below:

1. Individuals serving "in loco parentis" (in place of the parent) are now "parents" for the purpose of signing the eligibility form as well as for voting for and serving on parent committees. The proposed Part A regulations in section 186a.3 provide guidance in determining who is acting "in loco parentis." Again, individual cases may be referred to this office if there is any doubt as to who is the parent of an Indian child.

2. For parents submitting eligibility forms, the Act states that: "Any falsification of information provided on the student eligibility form for funds under Part A of such Act is punishable by making that individual ineligible for receiving any future entitlement under the Act."

BEST COPY AVAILABLE

3. For local educational agencies, the Act states that: "Any falsification of information provided on the local educational agency application for funds under Part A of such Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act."

4. The Assistant Secretary for Education is required to conduct a study on the definition of Indian and to submit a report to the Congress by 1980. For this year only the 506 form will be used to provide data necessary for that study. Some of the questions on the form are necessary only for the study and are not necessary for establishing the eligibility of the child. Please note, however, that a child may not be included in your district's count unless the following items have been completed:

- Name and address of the eligibile child.

Part I - Membership Information

- Identification of person through whom child claims eligibility (child himself/herself, natural parent, natural grandparent).
- Name of the tribe, band, or other organized group of Indians (Item A).
- Membership number or enrollment number, where applicable (Item C).
- The information requested in Item D, including an explanation of how the person indicated meets the definition of Indian if the parent answers "No" to question D.1.

Part II - School Information

- Name and address of school attended by the child.

Part III- Parent Information

- Signature and address of parent (Note, however, that the consent to release the form to the parent committee is optional).

The 506 form consists of three copies. The first copy is to be retained for your records; the second copy is to be given to the Part A parent

committee only if the consent for this is given by the parent; and the third copy should mailed to:

James J. Vanecko
Deputy Assistant Secretary
Education Policy Development, HEW
Room 317-H, Hubert Humphrey Bldg.
200 Independence Avenue, S.W.
Washington, D.C. 20202

This third copy is for the Assistant Secretary's office to be used in the study mentioned above. You will note that, to protect the privacy of affected individuals, certain identifiable information does not appear on that copy.

I realize that this change in our form will require a big effort on your part to acquire satisfactory signed forms and I wish to express my appreciation in advance for your cooperation. I am sure that your efforts will result in a better understanding of the need for Title IV and in obtaining a clear picture of who is participating in, and benefitting from the Title IV program.

Thank you for your help.

Sincerely,

Gerald E. Gipp

Gerald E. Gipp
Deputy Commissioner
Office of Indian Education

Enclosure

BEST COPY AVAILABLE

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

January 29, 1980

Dear Superintendent:

This letter is to provide you with further information on the Indian Student Certification (OE 506) form used to establish eligibility under the Indian Education Act, Part A, entitlement program for local public school districts. As you may recall, copies of the revised 506 form, accompanied by a letter of explanation and instructions, were sent to you in October, 1979. The form is used to determine the number of Indian students enrolled in the public schools of the district, and, consequently, the amount of funds to which the district is entitled.

The revised form and accompanying instructions have raised many questions concerning the certification of Indian student eligibility under the Part A program. Unfortunately, questions concerning membership in a tribe, band, or other organized group of Indians are often very complex and cannot be answered in simplistic terms. Situations and circumstances vary widely, leaving you in a difficult position when explaining the revised form.

The new 506 form was developed by the Office of Indian Education, which administers programs under the Indian Education Act, in response to the mandate of Congress in Public Law 95-561, the Education Amendments of 1978. That law requires the Commissioner of Education to request certain information on the student eligibility form, including the name of the tribe, band, or other organized group of Indians with which the child, parent, or grandparent claims membership; the enrollment number establishing membership (where applicable); the name and address of the organization responsible for maintaining membership data for the tribe, band, or other organized group; and an indication of whether the tribe, band, or other organized group of Indians is federally recognized.

The Education Amendments of 1978 contain no substantive change to the Indian Education Act's definition of Indian, nor is the revised form intended either to change that definition or to prevent any eligible students from being included in a district's count of Indian students. The revised form is designed, however, to ensure that individuals who do not meet the statutory definition of Indian are not included in a district's count.

In addition to requiring that certain items appear on the form, the Congress required that the Assistant Secretary for Education, in consultation with Indian tribes, national Indian organizations, and the Secretary of the Interior, supervise a thorough study of the definition of Indian in the Indian Education Act and report to the Congress in 1980.

The study, which is in progress, includes an examination of many issues concerning the definition. In particular, and in order to provide the Congress with comprehensive information on who is being served by the Indian Education Act, the study will include an identification of the total number of Indian children being served under Part A of the Act and an identification of the number of children eligible and served under each of the four clauses of the definition. The Assistant Secretary will not change the current Indian Education Act definition of Indian, but rather will identify and evaluate the consequences of various options in the report to Congress.

Thus, the new 506 form has two purposes. First, it will be used to establish the school enrollment count of Indian children under Part A of the Indian Education Act. Except for a student whose eligibility is being established for the first time this year, the Office of Indian Education will not require the use of the form for this purpose until the fiscal year 1981 grants process (approximately January 1981).

It is the responsibility of the local education agency (LEA) to ensure that an individual student eligibility form is on file for each student included in the count of Indian students on which the amount of an entitlement is based. The LEA is also responsible for making the initial determination as to whether or not the information submitted by the parent on the 506 form is acceptable.

The second purpose of the form, for this year only, is to collect data for the Indian definition study described above. School districts have been requested to submit this information to the Assistant Secretary for Education by May 15, 1980. Please submit only copy 3, Parts 1 and 2 of the form. This copy is perforated so that these Parts can be removed from the rest of the form. Please block out the names of any individuals that appear on the copy to be submitted, such as the name of the child's parent or grandparent in the first item under Part I.

Explanations of particular items concerning the revised 506 form are provided as follows:

Part I - Membership Information.

Question C. What is the individual's membership number?

This question is to be answered only when the tribe, band, or other organized group in which membership is claimed uses some type of numerical identifier for its members. All federally recognized tribes and Alaska Natives use identifiers for their members. Many State-recognized tribes and other non-federally recognized tribes also use numerical identifiers for their members. The information is to be provided for the child or, if the child is not a member, for the parent or grandparent through whom the child claims eligibility.

Two of the most common terms used for tribal identifiers are "enrollment number" and "allotment number." These are the two terms expressly stated on the 506 form.

Other terms and acceptable identifiers could include the following: tribal census number, membership number, tribal voting registration number, or roll number.

If the person completing the form does not have this information, he or she should request it from the tribe, band, or organized group of Indians for which membership is claimed or from the Bureau of Indian Affairs. If the numerical identifier is not received by January 1981, the LEA should continue to count the students and provide evidence that followup (preferably a second letter) to obtain the information has occurred. If the numerical identifier cannot be obtained, it is acceptable to have on file an official BIA or tribal certification.

Question D.1. Is there an organization which maintains membership data for the tribe, band, or other organized group?

If the tribe is federally recognized (including Eskimos, Aleuts, or other Alaska Natives), the answer to this question is "Yes." This is also true of some State-recognized tribes and other non-federally recognized tribes.

If the answer to question D.1. is "yes," then the name and address of the organization should be given under question D.2. The Bureau of Indian Affairs maintains a list of federally recognized tribes and their addresses. A copy of this list may be obtained by writing to:

Public Information Officer
Bureau of Indian Affairs
Department of the Interior
Washington, D. C. 20245

If the answer to question D.1. is "No," then question D.3. must be answered. In answering this question, the person completing the form should be able to provide such information as the following:

(1) An explanation of how membership is determined by the tribe, band, or organized group of Indians in which membership is claimed;

and

(2) A description of the documents or other evidence demonstrating that the person for whom membership is claimed meets the membership requirement, e.g., include copies of any proof of membership that may be available, such as letters of recognition from the tribe, band, or group; a birth certificate; family bible records; or other information that clearly establishes that person's membership or descendency.

Vague and unsubstantiated explanations such as, "I've always been told I was Indian," are not acceptable.

The Smithsonian Institution, 1000 Jefferson Drive, S. W., Washington, D.C. 20560, has published a handbook of American Indians North of Mexico, which contains a listing of many tribes. In addition, many libraries contain other reference books which also list Indian tribes.

Other sources of information and assistance in identifying tribes are the Indian organizations which are located in most urban areas. Colleges and university Indian organizations may also be of assistance.

In addition to the above information, the following information is provided in answer to some of the most common questions about the 506 form and the Indian Education Act definition of Indian:

1. Are Indians of Canadian, Mexican, or South American ancestry eligible under the Title IV program?

   In general, it is the practice of the Office of Indian Education to include, under clause (1) of the statutory definition, a tribe, band, or other organized group of Indians that is, or was, indigenous to an area that is, in whole or in part, within what is now the United States. However, individual situations must be dealt with on a case-by-case basis.

2. What about membership numbers for members of tribes whose rolls were closed prior to the birth of a grandparent through whom eligibility is claimed?

   Even though the membership rolls have been closed, most tribes maintain membership identification methods, such as tribal voting cards. Such identifiers may be used instead of an enrollment number.

3. What if a child is adopted or has been placed in a foster home?

   Because of adoption or placement agency practices or legal restrictions, some of the information requested by the form may not be available to adoptive or foster parents of Indian children. In such a situation, the person completing the form should provide all requested information that is available and attach to the form (or provide under

question D.3) an explanation of how the child meets the definition of Indian. A statement that the adoption or placement agency has informed the adoptive or foster parents that the child is Indian is sufficient.

4. Under the first clause of the definition, may membership be claimed for a great-grandparent?

   No. Membership may only be claimed by the child, a natural parent, or a natural grandparent.

5. Whose responsibility is it to obtain the necessary information if the parent does not have it at hand?

   It is the responsibility of the parent. The Office of Indian Education may provide help on possible sources for obtaining the information. However, the actual responsibility for obtaining the information rests with the parent.

6. What if eligibility cannot be demonstrated?

   If, by the date that final enrollment counts are due (approximately January, 1981), all efforts to demonstrate a child's eligibility are unsuccessful, the school district may not include the child in its count.

7. Is an Indian organization, Indian club, or other similar group considered an "organized group of Indians" for purposes of the Indian Education Act's definition of Indian?

   No. In general, it is the practice of the Office of Education to regard as an "organized group of Indians" an ethnically and culturally identifiable group of Indians, indigenous to the territory of what is now the United States, and which has been in substantially continuous existence throughout the history of the United States. However, individual situations must be treated on a case-by-case basis.

8. What is meant by "falsification of information" under Part III of the form?

   This phrase refers to a person's knowingly giving false information on the form. The penalty for falsification of information is that the child for whom the form is submitted cannot be included in an enrollment count under the Part A program at any time in the future.

9. Why does the 506 form request information on federally and non-federally recognized tribes (Part I, item E)?

The Education Amendments of 1978, Public Law 95-561, require that the eligibility form ask whether the tribe, band, or other organized group of Indians in which membership is claimed is federally recognized.

I hope this information will be helpful to you. If you have further questions, please let me know.

Sincerely,

Gerald E. Gipp

Gerald E. Gipp
Deputy Commissioner
Office of Indian Education

Dr. GIPP. I would like to add another variable here from the standpoint of the anxiety level of the Indian people, and that is the May 15 deadline for the data collection of the study.

People have misunderstood that deadine; many erroneously believed, if the data is not provided on May 15 perhaps their project would be eliminated at that time. We have taken great pains to try to clarify that the request for data will have no negative effect on their application.

Dr. SMITH. We agreed that while the definitional study wanted a early deadline date, we may find that much of the data for that study will not be available until January when the deadline date comes, so that we have tried to synchronize it so that there is less confusion in the field on that matter as well, because, Dr. Gipp is right. One of the major problems was that people felt that deadline data impacted on their lives more so than it did just simply the process of collecting data.

Mr. KILDEE. Last year when did the award letters go out?

Dr. SMITH. I think it was May 28.

Mr. KILDEE. When do you expect the letters to go out this year?

Dr. TIPPECONNIC. August 14.

Mr. KILDEE. They will be sent out on the 14th and you expect to be able to make that deadline?

Dr. TIPPECONNIC. Yes; we do, Mr. Chairman.

In fact this year we are exploring the possibility of issuing awards on a State by State basis. Last year all of the awards went out to all the projects at the same times.

This year it will be possible to transmit awards on a flow basis, taking States or groups of States at a time. By August 14 we should have all the awards out.

Mr. KILDEE. There is a February 14, 1980 OIE memo which indicates, among other things, that awards will be made on August 30, 1980.

Has that been superseded by a subsequent decision?

Dr. GIPP. Yes, that is correct. In trying to respond to a number of States that have difficulties with the grant award timing we have tried to move that back as much as possible, within reason, and, of course, as Dr. Tippeconic has related, there are particular States that have problems because of State laws and, we would hope that

we could deal with them on a State by State basis in order to move a deadline up to accommodate their special case.

Mr. KILDEE. So August 14 is your deadline?

Dr. GIPP. For the entire process, yes. We anticipate we can meet that.

Mr. KILDEE. How soon after the award letters would you anticipate that the money actually would be received by the District. This very often creates a problem in starting up a program.

Dr. GIPP. Exactly. We anticipate I think at this time that some time in October funds will be received by the school district.

Dr. SMITH. The normal procedure is that once they receive firm contracts from the Contracts and Grants Office, the notification, they can begin that process.

Mr. KILDEE. That doesn't create any problems, the delay to October?

Dr. SMITH. The actual receipt of the money, no. I don't know. Normally it does not. The process is such that most LEAs will not take any action until they have in hand the notification from the Federal Government.

Once they have the notification, they can proceed.

Mr. KILDEE. That is their letter of credit?

Dr. SMITH. Yes, sir.

Dr. GIPP. Arizona has a State law which would not allow them to begin activity. This is where we are hoping to deal first with that State.

Dr. SMITH. As a first priority that we would be able to take care of.

Mr. KILDEE. To try to accommodate them.

Dr. GIPP. Yes, and we have received several inquiries from other States, Oklahoma and the State of New Mexico, and we talked to them and we think we have things clarified with them.

Mr. KILDEE. Counsel?

Mr. LOVESEE. Mr. Chairman, thank you.

The August 14 deadline will be for the actual mailing of the letters. There will not be any back-dating of letters involved, will there?

Dr. SMITH. I don't understand what you mean by "backdating."

Mr. LOVESEE. Letters actually going out at the end of August, but being backdated to the 15th of August to allow school districts to proceed as of that date, as an operative date, from the standpoint of starting programs.

Dr. SMITH. I would not see the necessity for that. If we have a schedule with the Contracts and Grants Office, unless something disastrous happened in the Contracts and Grants Office, once there is an agreement that there is a specific date, it means it goes into a computer on a certain date and should come out on a certain date.

There should be no real need for doing anything other than assuring you that on August 15 everybody should have a letter.

Mr. LOVESEE. The staff had an earlier discussion with the division chief for the division of LEAA, which is Local Educational Agency Assistance, in which she stated that letters would go out at the end of August, but be backdated to August 15.

I was wondering if that has been superseded by a change in the time of the letters?

Dr. GIPP. That may have been a discussion you had. That policy has not been established at this point.

Dr. SMITH. Let me just say you can be assured by the Commissioner, who goes out of office today, but I will be around as an adviser to the Secretary and the Under Secretary so that it could be a commitment on my part, that if the letters are to go out on August 15 they will go out on August 15.

Mr. LOVESEE. Do you anticipate that there will be any delay from the notification and deficiency process that is going to be implemented vis-a-vis our earlier discussion which was not taken into account when you set up the original schedule for reviews?

I think the original schedule is what the August 15 date is based on. Am I correct?

Dr. TIPPECONIC. The August 14 date is based on our current schedule.

Mr. LOVESEE. And does that take into account any delays which may become involved in this?

Dr. TIPPECONIC. Are you asking about responses back from the LEA's?

Mr. LOVESEE. Yes.

Dr. TIPPECONIC. The process allows 4 to 5 weeks for the LEA to respond.

Mr. LOVESEE. Mr. Chairman, may I ask a question on logistics on that?

Mr. KILDEE. Certainly.

Mr. LOVESEE. With respect to the application if it involves a change in the actual program to be put into effect or any type of programmic change involving budget alteration, do you foresee any problems for LEAs getting together with parent committees over summer months in any of these reservation settings or any particular State settings from the standpoint of making those changes with parent committee participation?

Dr. SMITH. So as to meet the August 14 deadline?

Mr. LOVESEE. Yes.

Dr. SMITH. No. Let me tell you the process that typically happens. The program people will put together their recommendations.

The contracts and grants people do the actual negotiation. I don't know about this particular grant because I haven't talked with Dr. Gipp about whether GPMD carries out the same functions as they do on discretionary programs. Perhaps Dr. Tippeconic, you may want to clarify it. My assumption has been that once the negotiation takes place and there is an understanding of what it is they are going to be doing, then that is in fact the basis upon which the next set of steps are taken.

Mr. LOVESEE. What I am mainly interested in is this notice which is going to go in writing vis-a-vis the form that is already in the record to the school district, that involves any programmic changes. That would still be at the quality review level. In other words, still at the level where OIE is involved and still saying that the grant can go forward and be approved. Since that will take place during the summer months, do you foresee or are you aware of any interest having been expressed by people, with respect to whether parent committees will be available, and whether they

will be able to get together with the LEA's, to make the necessary changes so that the grants can be approved.

Dr. TIPPECONIC. Mr. Chairman, that is a potential problem we are aware of. We have communicated this concern to the LEA's. We have told them that the months of June and July will be the time when we will be sending the quality review notices to them.

We have alerted them to the fact that changes may have to be made, and the necessity to have the parent committee approval of these changes.

Mr. LOVESEE. No changes will be allowed except with parent committee approval?

Dr. TIPPECONIC. That is correct.

Mr. LOVESEE. One more question, Mr. Chairman.

With respect to New Mexico, which you mentioned, would you describe the negotiations or agreement which you have entered into with the State of New Mexico with respect to the grant time line and the monetary arrangements?

Dr. TIPPECONIC. New Mexico was concerned about the timing of the grant process this year and when the LEA's would have money in hand to start projects. We have worked with the SEA in the State of New Mexico. We have assured them that we will be able to give them certain information early in the process so they can use their own procedures to authorize projects to start at the beginning of the school year.

Mr. LOVESEE. Would you describe the information or assurances?

Dr. TIPPECONIC. We will give the SEA information concerning projects that are experiencing some difficulty in our process. We will let them know which LEA's in New Mexico will be requested to provide assurances or other adjustments, in their projects. The SEA will assist us in ascertaining that status. We will also provide the SEA with a listing of projects that will not be funded in New Mexico. Based upon this insight the SEA will authorize LEA"s to begin their projects if the discrepencies in the relevant applications may be corrected.

Mr. LOVESEE. Was there any guarantee or will there be any guarantee of the date when payment of the 1980 funds will be made to LEA's, such information to be provided to the SEA no later than August 1, 1980?

Dr. TIPPECONIC. When payment will be made?

Mr. LOVESEE. When payment will be made, yes, sir.

Dr. TIPPECONIC. Actually, payment to LEA's will be made between October 15 and November 1.

Mr. LOVESEE. Was that made in agreement or after consultation with the grants division, who will be responsible for actual negotiation and letting of that fund?

Dr. TIPPECONIC. That was made based upon our entire grants application plan. We know that the grant awards will be issued on August 14 and from past experience payments will actually reach the LEA's between October 15 and November 1.

Mr. LOVESEE. Then, Commissioner Smith, you would regard that date which has been transferred to the State of New Mexico as binding upon the Office of Education.

Dr. SMITH. Oh, yes.

Mr. LOVESEE. And its successor, the Department of Education?

Dr. SMITH. Yes; one of the things that we do with all of our programs is have them meet with GPMD to ascertain the amount of time that is necessary to review the applications and then from that point they go backward from the date to make sure that all of the steps have been included for the uniqueness of each of the programs.

I think it is safe to say that that date is a firm date. It is based on the schedule and then, as you know, we don't issue the money actually. It comes out of another agency and it has to be on the computer runs and the like.

I do not anticipate that there should be any problem in terms of the schedule that has been established for this program because it has changed as the circumstances changed.

When EDGAR created the problem for us, as it did, we then went back to reschedule to insure that the step-by-step process would take place.

Mr. LOVESEE. Did the Office of Indian Education initiate the discussion or dialog with the State of New Mexico from the standpoint of easing the LEA's transition because of the timelag?

Dr. GIPP. I am not sure. We can check that out for you if that is of major importance as to who initiated it. They obviously expressed a concern to us and we tried to respond to that.

Dr. SMITH. I think there is a history; as Dr. Gipp mentioned, there already is the knowledge that Arizona has a specific State law and as the program is administered one tends to find that there may be three or four or five States that have unique problems that the program needs to respond to earlier than the regular time line.

Dr. LOVESEE. What steps have been taken to ascertain which States those may or may not be? In other words, are you looking at the State laws and perhaps having the solicitor look at the State law to see where the problem will be?

Dr. SMITH. The mechanical thing is there is a relationship with State educational agencies. If there is a problem, it has grown out of past experience. If you find that there are no problems from past experience with the administration of the moneys, then you don't look for it. I don't think it would be necessary at this point for us to have to do any search.

We will be meeting with the Council of Chief State School Officers, as we have each year, sometime in June. At that meeting we will be briefing them on every aspect of the program area. This year it will be different because it is the department and it is in a broader context. But historically each deputy commissioner had an opportunity to indicate what they were doing in their program and in most instances if a chief felt he or she had a problem, they could notify the deputy commissioner immediately so that it wasn't a question of having to search for State law. You had one to one contact with them.

Mr. KILDEE. I imagine when you meet with the chief school officers you usually get a lot of information.

Dr. SMITH. Yes; that is the reason I said you will find it is more than Indians who are suspicious of the Feds at times.

Mr. KILDEE. Does the minority have any further questions on the grant application process?

Mr. ERDAHL. No. I just want to thank our distinguished panel for being with us.

Mr. KILDEE. We will keep the same panel for another area here. We have some questions now on the regional information centers and the request for proposals.

I think you have been alerted to the fact that we have questions on that. I will address this to Dr. Gipp.

Doctor Gipp, when you testified before the subcommittee in July of 1979, you outlined a proposed time line for us. The RFP was to be released in December. What has been the result of that scheduling? Have you been able to keep the schedule?

Dr. GIPP. I haven't gone back to look at that particular testimony, but I think we are anticipating that we will try to make contract awards some time in early spring or early summer of this fiscal year.

Mr. KILDEE. But the RFP was to be released, I think, according to that testimony, in December.

Dr. GIPP. Yes, that is correct. We have had some slippage of that particular time line from the standpoint of developing an RFP to make sure that we put together a process that addresses directly the kind of concerns we have for these centers. These centers, have been of major interest to the Indian population so we have taken the steps and the necessary time to insure that we have included desirable kinds of functions and worthwhile for operation of these centers.

Despite that slippage, I think we have a product that is the kind of product that we were looking for, so we have released our RFP, as you well know, on April 18, and we anticipate that we can still make contract awards by mid-August.

Mr. KILDEE. Mid-August?

Dr. GIPP. Yes.

Mr. KILDEE. How long is the application period itself?

Dr. GIPP. The opening for them to come forward and apply?

Mr. KILDEE. Yes.

Dr. GIPP. It is nearly 60 days, just short of 60 days. We had hoped we could open that up as much as 90 days, but, given the time line that we are facing, we have shortened the evaluation period to near 60 days.

Mr. KILDEE. Because of the fact that you had to delay the——

Dr. GIPP. No, actually we could take another month. We could move into the month of September. However, we would not like to do that. We would like to see these centers operational by September 1 if possible.

Mr. KILDEE. Do you have any concern about the consequences of the shorter response period?

Dr. GIPP. I think it is still an adequate time for them to prepare their responses.

As you well know, we have communicated widely with the Indian community in many respects as far as the establishment of these centers is concerned.

Of course, they have not had the specific information of how the centers would be established and function, but they have been alerted to that very early, as far back as August, when we held special meetings on these centers. In addition we have involved

representatives from the National Advisory Council and the National Tribal Chairmen's Association to help us prepare this and review this RFP.

Mr. KILDEE. Who will review the proposals? Will there be written instructions given to those reviewers?

Dr. GIPP. The applications will be reviewed on the criteria that are contained in the RFP. That review will take place by a blue ribbon panel. It is my hope that I can put together a panel that includes Indian professionals from around this country. There are a number of people that have certain expertise. We will be asking that they provide their expertise in this process.

In addition to that, of course, we are required to involve people within the agency in this review, so, depending on the number of applications that we receive that will, of course, dictate the number of people that we need for this particular panel.

Mr. KILDEE. You will assemble a panel and bring them together and they will discuss the various facets.

Dr. GIPP. Right. They will be asked to rate the applications according to the criteria that have been published.

Dr. SMITH. In addition to that, if it is necessary because there is a requirement for contracts to have actual Federal employees, if it is necessary to have experts, we do have the authority to ask other agencies that have Indian experts who are Federal employees to act as readers as well.

Mr. KILDEE. You could get readers from various sources who are qualified?.

Dr. SMITH. Yes.

Mr. KILDEE. And have them come here, probably to Washington.

Dr. SMITH. Yes, but we also could go to BIA. We could go to other agencies that have Indian experts. For example, in addition to the Indian education program, we have a number of programs in the Office of Education that have a very high percentage of Indian projects and those persons who have been working with the Indian community could in fact be part of that review panel.

Mr. KILDEE. So you have flexibility?

Dr. SMITH. Yes; there is flexibility outside the Indian program, if necessary.

Mr. KILDEE. When will the award letters be mailed after this panel has assembled and made their decision?

Dr. GIPP. We have established the deadline of August 15 to award contracts and, of course, the RFP calls for a pulling together of those successful bidders immediately, I think it is 5 days after that award is made, so they can discuss a number of issues that will be common to all of those center operations.

Dr. SMITH. If we find that the pace can be quickened, we would want, of course, to try to do it even sooner, but that at this point is the schedule.

Mr. KILDEE. In assembling or putting together the RFP, was there a panel used in putting that together also?

Dr. GIPP. Yes. Basically I wouldn't call it a panel per se. We did confer, in that we had involvement from the National Tribal Chairman's Association; the National Advisory Council provided two people to review the RFP. As you well know, we are dealing with a confidential document.

In addition to that, we had some ten other reviews within the agency, of people who have expertise in operating centers, so in total we had 13 reviews of about three drafts of the RFP, so it was very thoroughly reviewed and redrafted accordingly.

Dr. SMITH. I was going to say, Mr. Kildee, this is where the bureaucratic ideas really work because it has to go through a number of clearance processes, including the General Counsel and our Policy Office.

Mr. KILDEE. Even though it is confidential material and others aren't involved, you brought people in on this panel. Would any useful purpose have been served if you had shared that information with this committee, or do you feel that may have been counterproductive?

I think we made requests for some information on the RFP. Did you feel that it would be imprudent to share that information?

Dr. SMITH. There is a policy, again an internal policy, that specifies that no information relative to a particular item should be shared until such time as it is ready for public consumption.

The only reason for that is that we are never sure of the extent to which we are on target, and the least number of opportunities we have for sharing tightens up our process. We apologize and we would hope in the future that if such a request comes that we could be responsive in some way.

Mr. KILDEE. I would think if we could be of assistance or help—of course, I know the President doesn't share with us all his plans either, so this is not I think unique to the Office of Indian Education.

Dr. SMITH. He did, though, say he was hoping to improve that.

Mr. KILDEE. Yes. You made the same commitment, so we appreciate that.

Given the lateness of the process with respect to the fiscal year, do you anticipate any money will have to be turned back or will payments be prorated?

Dr. GIPP. No, they will not be prorated. We do not anticipate any loss of funds as long as those funds are obligated before September 30.

Dr. SMITH. We are on target. That should not be a problem. We should not lose a penny with regard to expenditure.

Dr. GIPP. The RFP sets out rather rigorous reporting requirements by the centers, on a monthly basis reporting, for example. Given the amount of material this will generate, how many full-time staff will be required to fully monitor on this basis? Will every report each month be evaluated or there will be some blind draws?

Dr. SMITH. I don't know what Dr. Gipp will have specifically, but normally there is a program officer who may be responsible for all five centers, in other programs; or he may have a particular program specialist responsible for each center. That will be dependent upon the number of staff that he has and the management system that he uses, but it will be the responsibility of the specialist, who is the project officer, to go through all of those reports and to be more knowledgeable about what is happening on a day-to-day basis than any other individual.

Dr. Gipp, you may want to add to that.

Dr. GIPP. At the present time I can't say directly that we will assign one, two or five people to this operation. Of course, one of the things that you are well aware of is that we are moving into the Office of Elementary and Secondary Education.

There are some concerns about the overall arrangement and functions within that organization. These will have direct impact, of course, on our program, but we are interested in looking at our organization and how we are presently functioning.

If we do reorganize, the operations of these centers will be an integral part of that decisionmaking.

Dr. SMITH. I should say the Secretary of Education, Shirley Hufstedler, is committed to Indian education and I feel I can assure you that she will do everything that is within her power, and there is a great deal of power, to continue to enhance the quality of our Indian education program.

Mr. KILDEE. Yes, we certainly want to see that as a continuing process, and I am also concerned, as I am sure you are, that the Office of Indian Education have its proper position within that new department.

It has been our concern from the very beginning because we feel it is extremely important, so we definitely share your concern on that.

I would like to ask just a simple opinion, since it has been asked of us, and perhaps you can help us in responding to it. Will Indian contract schools be required to fill out 506 forms?

Dr. GIPP. Because of the congressional mandate, we are requesting that those schools provide that information in order to have a complete student profile. I think they will comply with that.

Mr. KILDEE. So they will be required to do that.

Dr. GIPP. That is correct.

Mr. KILDEE. Minority? Mr. Erdahl?

Mr. ERDAHL. No questions, Mr. Chairman.

Mr. KILDEE. I want to thank the witnesses for the testimony this morning. I want to especially thank Commissioner Smith for being present today. I, frankly, a few weeks ago, was very flattered, Commissioner, when you came to my office.

We don't always have such distinguished people coming to congressional offices. I really appreciate it. I want to commend you for the excellent way that you discharged your duties and certainly wish you well in the future and I think that you have earned the respect of the Congress and will continue to have that respect from Congress.

Dr. Gipp, we will continue to enjoy working with you. Our hearings are based upon oversight responsibilities which the Congress has. All of us recognize that we want to serve the Indians of this country in the most satisfactory manner possible and that this is a dynamic process, not static. We want to try to respond to the needs. We certainly appreciate, Dr. Tippeconic, your presence and testimony here this morning.

Dr. SMITH. We appreciate the opportunity but, more importantly, Mr. Kildee, we appreciate the fairness and the openness with which we have found our association with you. I want you to know it has been an honor for me to have this opportunity to come to know you. I thank you very much.

Mr. KILDEE. Thank you.

Mr. Erdahl, do you have any closing remarks?

Mr. ERDAHL. I would just like to echo the sentiments that you so eloquently expressed to Dr. Smith, and his colleagues as well, to continue on what they are doing, and I guess follow some new pursuits. I also would like to commend you, Mr. Chairman, for the interest and concern that you have exhibited in this area and I look forward to association with you and also with the distinguished panel that appears before us today. Thank you.

Dr. SMITH. Thank you.

Mr. KILDEE. Thank you very much.

This hearing will stand adjourned.

[Whereupon, at 11 a.m., the subcommittee was adjourned.]

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